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MILLER, HORN, AND TRABANDT NOMINATIONS

HEARINGS

BEFORE THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

NINETY-NINTH CONGRESS

FIRST SESSION

ON THE

NOMINATIONS OF RUSSELL F. MILLER TO BE DEPUTY INSPECTOR GENERAL, UNITED STATES SYNTHETIC FUELS CORPORATION; WILLIAM P. HORN TO BE ASSISTANT SECRETARY FOR FISH AND WILDLIFE AND PARKS, DEPARTMENT OF THE INTERIOR; AND CHARLES A. TRABANDT TO BE A COMMISSIONER OF THE FEDERAL ENERGY REGULATORY COMMISSION

JULY 24 AND 29, 1985

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CONTENTS

	Page
Hearings:	
July 24, 1985	1
July 29, 1985	111

WEDNESDAY, JULY 24, 1985

STATEMENTS

Alexander, Susan, Alaska regional director, the Wilderness Society	58
Gianoutsos, Francois Treffel and Theodore Nickolas, Arlington, VA	71
Hatfield, Hon. Mark O., a U.S. Senator from the State of Oregon	4
Hayden, Wes, legislative counsel, International Association of Fish and Wildlife Agencies	67
Horn, William P., nominee to be Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior	17
Leask, Janie, president, Alaska Federation of Natives, accompanied by Don Mitchell, Esq., counsel	49
McClure, Hon. James A., a U.S. Senator from the State of Idaho	1
Melcher, Hon. John, a U.S. Senator from the State of Montana	2
Miller, Russell F., nominee to be Deputy Inspector General of the United States Synthetic Fuels Corporation	7
Murkowski, Hon. Frank H., a U.S. Senator from the State of Alaska	6, 13
Warner, Hon. John W., a U.S. Senator from the State of Virginia	6

MONDAY, JULY 29, 1985

STATEMENTS

McClure, Hon. James A., a U.S. Senator from the State of Idaho	111
Trabandt, Charles A., nominee to be a Commissioner, Federal Energy Regulatory Commission	112

APPENDIXES

APPENDIX I

Biographies and informational statements of:	
Russell F. Miller	159
William P. Horn	176
Charles A. Trabandt	191

APPENDIX II

Responses to additional questions from:	
William P. Horn	207
Charles A. Trabandt	241

APPENDIX III

Additional material submitted for the record	253

MILLER, HORN, AND TRABANDT NOMINATIONS

WEDNESDAY, JULY 24, 1985

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The committee met, pursuant to notice, at 9:41 a.m., in room SD-366, Dirksen Office Building, Hon. James A. McClure (chairman) presiding.

Present: Senators McClure, Hatfield, Domenici, Warner, Murkowski, Nickles, Hecht, Evans, Johnston, Ford, Metzenbaum, Melcher, and Rockefeller.

Also present: Frank M. Cushing, staff director; Gary G. Ellsworth, chief counsel; D. Michael Harvey, chief counsel for the minority; and Thomas B. Williams, professional staff member for the minority.

OPENING STATEMENT OF HON. JAMES A. McCLURE, A U. S. SENATOR FROM THE STATE OF IDAHO

The CHAIRMAN. Good morning. The committee will come to order.

Today, the committee will receive testimony on three nominations for positions in the executive branch at the United States Synthetic Fuels Corporation, at the Department of the Interior, and at the Federal Energy Regulatory Commission.

None of the nominees are new to Government service. Each of the nominees have already provided our Nation with extended careers in public service.

Our first nominee is Russell F. Miller, to be Deputy Inspector General of the United States Synthetic Fuels Corporation for a term of 7 years.

Mr. Miller has had an extended career in public service, including 29 years with the Central Intelligence Agency. Currently, he is Director of Investigations at the Synthetic Fuels Corporation, where he has worked for the last 4 years.

He is well qualified for the special role that the Deputy Inspector General must now play as the SFC moves into the contract monitoring phase of its activities.

Today, the SFC's program is significantly scaled down from what was originally envisioned by the Congress. But we have a program that can make a significant contribution to our country's energy security.

Effective implementation of the SFC's contracts for financial assistance is essential to the successful development of necessary in-

frastructure to support a national synthetic fuels capability for the United States.

Mr. Miller's background is appropriate for the position of Deputy Inspector General.

Our second nominee this morning is William P. Horn, to be Assistant Secretary for Fish and Wildlife and Parks at the Department of the Interior.

Mr. Horn is currently serving as Deputy Under Secretary of the Department of the Interior, where he has responsibility for coordination and direction of Alaska-related programs, and serves as Chairman of the Great Lakes Fisheries Commission.

His current position follows a career in public service within the executive branch and as a House of Representatives staff member.

He is a lawyer by training, with extensive experience in natural resource management.

Our third nominee is Charles A. Trabandt, to be a member of the Federal Energy Regulatory Commission, for a term expiring October 20, 1988.

Chuck is well known to the members of this committee, having served on its professional staff for 8 years, most recently as the committee's chief counsel for the 4 years from 1981 to 1984.

Chuck has also had an extensive career in public service, and his legal and technical training and experience in energy matters began in the early 1960's at the Naval Academy, and continued through his 10 years of service as a congressional staff member. This experience, first in the House and then in the Senate, embraces a broad spectrum of legislative and regulatory issues involving Federal energy and natural resource policies.

Before proceeding to the testimony of the witnesses, I would call upon members of the committee for any statements they would wish to make at this time.

Senator Hatfield.

Senator HATFIELD. I'll pass.

The CHAIRMAN. Senator Melcher.

STATEMENT OF HON. JOHN MELCHER, A U.S. SENATOR FROM THE STATE OF MONTANA

Senator MELCHER. Thank you, Mr. Chairman.

I, first of all, want to state that in regard to the nomination of Mr. Miller and Mr. Horn that I have absolutely no problem with their appointment. When the time for voting comes, if I am not present, I would ask that I be voted in the affirmative as approving their nomination.

Now, as to the third nominee, Charles Trabandt, I have something to say on that.

The handling of the FBI report on Mr. Trabandt I think unduly placed him in a position that the public might ascertain to be harmful.

I reviewed the FBI report by contacting the White House and telling them that I was available at a certain time if they were free to bring up the FBI report, one person was free. The report was handled in a highly secretive way, indicating that there was something very revealing about Mr. Trabandt.

The very handling of the report I believe might have created a suspicion of what was in the report and that, in the public's perception, may be damaging to Mr. Trabandt.

Mr. Trabandt may have been a very competent, hard-driving staff director, and as some may believe, he may have been more partisan than he needed to be. Speaking as a member of this committee and the minority party, my reaction to these observations is this:

I, too, found him at times difficult to get around and maybe that's partisanship, but I didn't believe he was overly partisan. I did find him to be hard driving, and I don't know how he handled the staff under him; they may have had some problems with this and there was allegation of pressuring employees. But, as a member of the committee, I always found Mr. Trabandt to be all right as staff director. He was a hard-driving staff director.

Having received the FBI report before me in this very secretive way—such as having nobody in the room, or not keeping a copy of it—I thought there may be something in it.

I have to candidly tell you that all I found in the report was two embarrassing incidents to Mr. Trabandt having to do with driving, which are already on the public record. There is nothing very secretive about that.

The high secretiveness of this FBI report would lead people to believe that there must be something in there that is damaging to Trabandt. Well, I don't think there was. That's this Democrat's opinion.

I don't think it was damaging. I think maybe Mr. Trabandt has been done a disservice.

I want to say that I personally regret this disservice. I believe all of us who are in the Congress have some responsibility when a situation is created by secrecy and innuendo which is harmful to somebody's reputation.

I didn't find the report damaging, other than what is on the public record already, and indeed those are embarrassing incidents. All of us might have had such embarrassing incidents connected with driving and drinking. I know I have.

I think my vote emphatically goes for Mr. Trabandt to be confirmed.

I'm sorry this disservice has happened to him and I wish it hadn't. I think the process could be handled a lot better on these FBI reports, and I hope for the good of everybody that we examine how these reports are handled in the future.

The most damaging part of the report, the embarrassing incidents, is already on the public record. There are two cases, in case anybody is wondering, and quite a while back, quite a few number of years behind us, when they did occur.

So, Mr. Chairman, vote me in the affirmative for Chuck Trabandt, too, if you would.

The CHAIRMAN. Thank you, Senator Melcher.

Senator Hatfield.

STATEMENT OF HON. MARK O. HATFIELD, A U.S. SENATOR FROM THE STATE OF OREGON

Senator HATFIELD. Mr. Chairman, I had passed on the first invitation from the Chair to make a comment, but since the Senator from Montana has raised the issue of the nominee, Charles Trabandt, I would like to make a brief statement as well at this time.

I was the ranking Republican member of this committee, a minority member, for a number of years, before the Republican Party took control of the Senate, and, as such, it was my responsibility to direct the Republican minority staff, of which Mr. Trabandt was a member.

He was not my appointee to the staff, but I immediately recognized in Mr. Trabandt a man of competence, ability, intellect, and, I must confess, I found difficulty at times in his style of operation. It was not my style. At times I not only found trouble with it, I was actually offended by his style of operation.

I emphasize it was style, and not matters relating to what you'd call a defect in substance of operation. It was purely style.

I happen to be one who believes in laying all my cards on the table immediately, and people know what my hand is and I know what their hand is. That's a style.

Everyone doesn't subscribe to that type of leadership or that type of operation.

I had heard the word "devious." I had heard the words used about his style that he was abrasive, and I think that there was perhaps evidence to indicate that he was both at times—devious not on truth, but devious on timing and on how much information he stated at any one time.

I found things like that difficult.

But, at the same time, I'm not sure that any of us have, in the balance between pluses and minuses, negatives and positives, that any of us can say that our life is filled only with the pluses and none of the minuses.

As I try to weigh every candidate who comes before this committee for confirmation, we have to weigh the pluses and the minuses.

I want to say that in my view the pluses outweigh the minuses in the case of Charles Trabandt.

I'll opt for competence and intellect any day, and make some kind of accommodation for style. As long as a person has that basic intellect that a job like this for which he has been nominated demands, I say there is going to have to be an awful lot of negatives to cause me not to support his confirmation. And it's going to have to be something far more than the question of his style of operation.

I think there's also another factor. The Senator from Montana has referred to the FBI report. I have read the FBI report as well.

Some of those matters that would be considered as negative in the FBI report had to do with personal lifestyle, and in that case there has been a tremendous change in the personal lifestyle in his life. I need not go into detail. But I think that sometimes, when people have marital difficulties, those problems are reflected on the job; and when those marital difficulties are resolved, that person's

attitude and that person's method of operation on the job can change.

I have seen that occur in Chuck Trabandt's life.

He is a happily married man with three children by this wife, and a very affirmative situation exists there, a very stable situation in the home.

I think it's a very interesting commentary, too, that even his first wife made nothing but plus and positive comments in her interviews with the FBI. So that tells me something as well.

So, I think that, again, we can pick up—I'm always interested in how we selectively apply ethics and morality at times. We are so demanding of some of these witnesses that come before us. I wonder how many of us would withstand the same kind of application of standard, ethic, and morality in our personal lives that we are demanding of these people. We break open their personal life. I'm not saying there is no relationship between public and personal life. I don't think a person's life is divisible into compartments, where he can say my morality in public is one way and my morality in private is another.

I happen to believe that, but that is not universally held as a perspective. Obviously, because there are people in public life who, I am sure, their private life would not really stand much exposure.

But that's just an observation over 35 years of public life.

So, I feel that when we are making a case against a nominee as it relates to personal lifestyle, we'd better be very careful, in the sense that I think we ought to demand of ourselves the same standard that we are demanding of anyone else.

So, I want to summarize, again, by saying that I didn't get along with Chuck Trabandt all that well on a day-to-day basis, but it related to operation style. At no time did I ever have any diminution of my respect and my regard for his capacity, for his intellect, for his devotion, for his tenacity, for all those things.

It's interesting; it's tenacity when you are looking at a person favorably, and it's stubbornness when you are not favorably disposed.

But I take as a positive here that he has those charcteristics that I think are used for the plus in this kind of a job.

I might not have nominated him if I had been in the nominating role, but I certainly would have selected him any time, anywhere, if I wanted to go into battle on the facts of the case and on the intellect that is required to solve problems that he will have to solve.

One last analogy. In the military we used to say there are those with whom you would choose to go to the officers' club and tip a few and bend the elbow in good, old sociability and fellowship. But they might not necessarily be the same ones you would want to go into battle with.

When the going gets tough and you really want to be able to depend on someone and their ability to defend the line or the target or whatever you were aiming at in time of military battle, it wasn't always the officers' club buddies that you wanted to be side-by-side with.

I would say that I might not go to the officers' club with Chuck Trabandt, but I would certainly want to have him, believe me, at

my side and at my elbow, or be at his elbow, if we were doing common battle together.

The CHAIRMAN. Are there any other statements?

Senator MURKOWSKI. Yes, Mr. Chairman.

The CHAIRMAN. Senator Murkowski.

STATEMENT OF HON. FRANK H. MURKOWSKI, A U.S. SENATOR FROM THE STATE OF ALASKA

Senator MURKOWSKI. I think it appropriate to recognize that this process is not one whereby the nomination comes from anyone but the President.

I, too, have read the FBI report. I am prepared to participate in the hearing process concerning Mr. Trabandt, and I look with interest to the dialog that develops concerning any questions that my colleagues might have concerning Mr. Trabandt's qualifications or actions.

Mr. Chairman, that's the extent of my statement, but I felt necessary to put it into perspective.

The CHAIRMAN. Thank you very much.

I am certain that when we get to the point where we are considering Mr. Trabandt's nomination and he is before us, that these matters that have been alluded to will be discussed fully.

It is certainly my intention, as chairman of the committee, to explore those matters which are matters of public record and appropriately before us, and any others that may be raised by members of the committee fully so that the public can be assured that, indeed, the handling of either the FBI report or of the hearing itself shouldn't lead to any kind of speculation as to what was or was not involved.

I am constrained to remind members of two things. We have three nominees before us. We have a very limited time to consider all three.

I think it is highly unlikely that we will be able to consider all three in the time allotted to us this morning, along with some legitimate concerns that people have that we have sufficient time to prepare for and to examine Mr. Trabandt's qualifications and the matters that have been alluded to.

It will probably, later this morning, be my purpose to recess this hearing until Friday morning to complete the hearing.

Are there any other Senators who wish to make statements at this time?

STATEMENT OF HON. JOHN W. WARNER, A U.S. SENATOR FROM THE STATE OF VIRGINIA

Senator WARNER. Mr. Chairman, I just wish to commend the Chair for the manner in which it has involved all Senators in the deliberation of the forthcoming hearing on Mr. Trabandt.

I, too, have read all of the records that have been made available, and I think that the Chair's representation to the members on both sides that there will be a full and complete airing of all issues which reflect on this nominee's qualifications suffices.

The CHAIRMAN. I have pledged to you and to the other members of this committee that that will be the case, and there will be the opportunity for a full and complete discussion of those issues.

Senator WARNER. Subject to that, it's my hope that I can be supportive of this nominee.

The CHAIRMAN. I thank the Senator.

Mr. Miller, the rules of the committee which apply to all nominees that come before this committee require that they be sworn in connection with their testimony.

Will you please rise and raise your right hand.

[Whereupon, Russell F. Miller was duly sworn by the chairman.]

The CHAIRMAN. Please be seated.

Before you begin your statement, we propound four questions to all nominees who come before us for positions that require our confirmation. I'd like to ask these four questions of you.

Will you be available to appear before this committee and other congressional committees to represent departmental positions and respond to issues of concern to the Congress?

Mr. MILLER. I will.

The CHAIRMAN. Your informational statement has been submitted to the committee. However, it is required that this statement be made public, unless the committee decides that special circumstances justify an exception.

Do you have any objection to the publication of your informational statement?

Mr. MILLER. I have no objection.

The CHAIRMAN. Are you aware of any personal holdings, investments, or interests that could constitute a conflict of interest or create the appearance of such a conflict, should you be confirmed and assume the office to which you have been nominated by the President?

Mr. MILLER. No, sir. I'm not aware of any such conflict.

The CHAIRMAN. Are you involved in or do you have any assets held in blind trusts?

Mr. MILLER. No, sir.

The CHAIRMAN. Mr. Miller, you may proceed with your statement.

STATEMENT OF RUSSELL F. MILLER, NOMINEE TO BE DEPUTY INSPECTOR GENERAL OF THE UNITED STATES SYNTHETIC FUELS CORPORATION

Mr. MILLER. Thank you, Mr. Chairman.

I am pleased to be here today as the President's nominee for the position of Deputy Inspector General of the United States Synthetic Fuels Corporation.

I have worked in the Office of the Inspector General as Director of Investigations since August 1982, and have developed a good foundation for, and understanding of, the responsibilities of the inspector general.

During that period of time, I have worked closely with the incumbent inspector general, and believe that this experience would be most useful to me if I were to be confirmed as the deputy inspector general.

I have also worked in various management positions in my years of service with the Central Intelligence Agency, which involved information analysis and investigations. These activities included collecting, collating, and evaluating information from a variety of sources and preparing reports on this information for senior levels of our Government.

This experience is generally transferable to the work done by the Office of the Inspector General in carrying out its functions.

It would also be most helpful in preparing and editing the various reports which may be produced by the Office of the Inspector General, including audit and investigative reports, the annual report, and any other reports the inspector general may judge to be necessary or desirable.

The general mission of the Office of the Inspector General at the Corporation is to conduct audits, investigative and inspection efforts to insure that corporate activities are conducted with efficiency and economy and to detect and prevent fraud and abuse in programs or operations of the Corporation.

My previous work on the inspector general's staff in the general area of investigations and investigative support for the audits of the Corporation's activities has provided me a very useful background to function effectively as the deputy inspector general.

As the contractual responsibilities of the Corporation increase in the project area in the months ahead, there will be a corresponding augmentation in the audit and oversight functions of the Office of the Inspector General.

My previous experience would assist the inspector general in carrying out his increased responsibilities in these areas.

The development of a synthetic fuels program is an important effort, but it must be carried out in a cost-effective manner. The role of the inspector general is to insure that this is done and that the contracts for financial assistance approved by the Board of Directors are implemented as the Board of Directors intended.

I consider the mission of the Office of the Inspector General to be important to the success of the United States Synthetic Fuels Corporation and would look forward to serving as the Deputy Inspector General of the Corporation.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Miller.

It's a rather unusual event in some respects, that we confirm a deputy inspector general. But I think that is a reflection of the rather unique character of the Synthetic Fuels Corporation.

It has a special statute, special statutory authority, carefully prescribed and limited independence, carefully prescribed and limited executive branch intervention. Unusual rules with respect to conflicts of interest, different rules with respect to ethics standards that apply to employees of the Corporation.

I think it is, under those circumstances, not unexpected perhaps nor terribly unusual that we would be following the line of authority down to the office of a deputy inspector general for a confirmation hearing.

Perhaps the most troublesome question that we have in government is that of conflict of interest and ethical behavior on the part

of people who are involved in government. And we do set high standards.

At the same time, we recognize that if we were going to be able to get the kinds of people who really were capable in the technical sense to understand, to evaluate, and to implement the programs of the Synthetic Fuels Corporation, we're probably going to reach for and find people as officers and employees of the Corporation who have had an extensive background and experience. And that background and experience would almost inevitably have crossed lines with some of the people with whom the Corporation must deal.

While the primary responsibility of the deputy inspector general or the Office of IG is not that of ethics, there may be from time to time the requirement that the IG look at the operations of the Synthetic Fuels Corporation and of the ethics officer to determine whether the statutory standards are being complied with.

I assume that you have read those statutes?

Mr. MILLER. Yes, sir, I have.

The CHAIRMAN. Do you find any particular difficulty in the application of the standards prescribed in the statute?

Mr. MILLER. I do not.

The CHAIRMAN. I have no further questions of you at this time, Mr. Miller. I look forward to working with you and wish you success in the job for which you have been nominated.

Mr. MILLER. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Ford.

Senator FORD. Thank you, Mr. Chairman. I just have one question.

Mr. Miller, would you describe to the committee in the simplest terms what you see your duties and job will be when you are confirmed?

Mr. MILLER. Well, my job is to assist the inspector general in his role of supervising and coordinating and providing guidance to the audit, inspection, and investigative activities, to ensure that the operations of the Corporation are done with efficiency and economy, and to be on the lookout for any waste, fraud, or abuse; to also ensure that the operations of the Corporation and the programs are consonant with the Energy Security Act.

We also have—the inspector general has, the role of ensuring that there is no duplication of effort between our inspector general's office and the General Accounting Office. He is also to report any violations of Federal criminal law.

Senator FORD. There is just one quick question that brings to mind. If an award is made by the Synthetic Fuels Corporation to a project, do you then have the responsibility through the inspector general, or he would authorize you, to audit and to pursue the investment in a given project that's been approved by the Synthetic Fuels Corporation?

Mr. MILLER. Yes, sir, we do.

Senator FORD. How often would you do that? Do you have a kind of continuing check, or do you go periodically and check the books?

Mr. MILLER. It's a periodic kind of thing, Senator.

Senator FORD. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Murkowski.

Senator MURKOWSKI. I have no questions, Mr. Chairman. I look forward to working with Mr. Miller and intend to vote for his confirmation.

Mr. MILLER. Thank you, sir.

The CHAIRMAN. Thank you.

Senator Metzenbaum.

Senator METZENBAUM. Mr. Miller, I am a little new to your file, but I am frank to tell you that I don't know when I've seen a file which indicates a person is better qualified for this kind of responsibility. On the plus side, I find that you've had tremendous experience, both at the CIA as well as with the military, and a position of high responsibility with the CIA. I find that you are very decorated in your military service.

And I find that you also have been very prominent in the political affairs of the present administration, which I don't find to be a problem. I understand that. It sort of helps these days around Washington, particularly in the appointing process, and I have no quarrel about that.

What is concerning me about your appointment is that you've been a part of the SFC now for how many years?

Mr. MILLER. Basically, since early 1981, sir.

Senator METZENBAUM. And I don't think that any agency has had more negative publicity with respect to its expenditure of that which might be considered quasi-public—well, public funds. They are public and then they become part of the Synfuels.

I just have a couple of headlines: "Synfuels Corporation Bigwigs Feast at Public Trough," "Portrait of a Federal Fiasco," "U.S. Synfuel Effort Makes Debits, Not Oil," "Secrecy Surrounding Synfuels," "The Sinful Cost of Synfuels."

And certainly there have been a lot of problems with respect to mismanagement and administrative abuses. I think it's my understanding that two presidents of the Synfuels Corporation were forced to resign. Query: Where has the inspector general been during all of this period and what, if anything, has the inspector general and you personally done in connection with some of these issues?

Mr. MILLER. Sir, we have been very actively following all of those events very closely, including those two situations in which the presidents of the Corporation resigned. Over the past 3 years, we have, the Office of the Inspector General, has conducted a total of several dozens of investigations and internal audits, out of which we have made something in the neighborhood of 100 different recommendations to the Corporation to improve the shortcomings and deficiencies of the Corporation.

Senator METZENBAUM. Would you tell us some of the major ones that the Inspector General's Office has made?

Mr. MILLER. We have looked at corporate policies intensively and made various recommendations to improve and tighten those various policies and procedures.

Senator METZENBAUM. Would you give us some specifics?

Mr. MILLER. We have done a rather thorough look at relocation reimbursement policy, for example. We have looked at the general personnel policies rather intensively as well.

Senator METZENBAUM. Having looked at them, certainly you're touching upon some issues that have been in the public arena: claims of excessive salaries and benefits offered to SFC officers and employees, salaries up to $135,000 a year, vesting of retirement rights after 2 years, which is totally unheard of in any other department of Government. And I'll think of it somewhere. Let's see.

The SFC—well, let's see. At the end of fiscal year 1984, the SFC employed a total of 169 individuals, 110 professionals and 55 support personnel. Ninety of those employees, or more than 53 percent of the entire corporation's entire work force, are paid annual salaries equal to or greater than $30,000.

The SFC has also implemented an unusually attractive employee retirement program, that allows for full vesting after only 1 year of service and 50 percent vesting after only 6 months. The SFC contributes 100 percent to an employee's retirement fund.

Retirement funds are paid to employees, not upon retirement, but when they leave the Corporation. As a result, over the past 2 years the SFC has paid almost $1 million in retirement benefits to former employees, and the Corporation is only 4 years old.

I think I am reading from a Jack Anderson column, but I am not 100 percent certain about that, the way it has been presented to me. But whether that is the case or not, what has the Inspector General said to the management or the board at SFC concerning the matter of vesting within or after only 1 year of service, 50 percent vesting after only 6 months, SFC contributing 100 percent to employees' retirement fund, and $1 million paid out of retirement benefits to a corporation that's only 4 years old?

It's the public money that is being given away. What has the Inspector General said about that?

Mr. MILLER. Sir, the Inspector General has looked at the conceptual philosophy behind the Synthetic Fuels Corporation. Being a very limited duration type of organization and to attract the kind of skilled personnel we need, that the Corporation needs, they have had to pay salaries that would attract these individuals.

As far as the salaries, I understand there are three above executive level one: the Chairman of the Corporation at $175,000, which is not being paid—the Chairman is drawing only $69,630, as I understand—the president of the Corporation at $135,000. That position is vacant. The third position at above executive level one is above that level, but the individual has not had a pay raise in 4 years.

The Corporation has done a study, Senator, which I would commend to you, the facts of which I don't have at my disposal, done by Hay Associates, a nationally known personnel recruiting firm, in which it shows that the salaries paid to the senior personnel are generally consistent with the salaries paid to the private sector for similar types of work, and in fact are something like 10 to 12 percent lower than what is paid in the private sector.

That report does exist.

Senator METZENBAUM. Since there is a quasi-public aspect, if not totally public aspect, to the Synthetic Fuels Corporation, isn't it a

fact that Government just normally does not pay salaries comparable with private industry? The President of the United States doesn't get as much as many corporate executives in this country do. The Attorney General doesn't make as much as prominent lawyers do. The head of the Department of Energy, the Secretary of Interior, none of them are paid salaries comparable to private industries. And there is some sacrifice that you make when you enter the Government.

My question is—and I guess what you are saying to me is that the Inspector General has actually sort of looked at these issues and pretty much put their blessing on the acts that the SFC has taken, is that correct?

Mr. MILLER. Sir, I cannot speak for the Inspector General himself, but I am sure he has taken a look at these things and is reasonably satisfied, or we would have been looking further into the matter.

Senator METZENBAUM. You said, I think, that there were about 100 audits done by the Inspector General or 100 investigations?

Mr. MILLER. No, sir. From all of the investigations and audits which have been done by the Office of Inspector General over the last approximately 3 years, there are a total of approximately 100 recommendations that have been made by the Office of Inspector General to the Corporation, most of which have been accepted and implemented by the Corporation, to improve upon its management.

Senator METZENBAUM. And I will ask you again, because I don't think you did answer me before, can you tell us of several particular recommendations that have been made, that were implemented, and what the impact has been?

Mr. MILLER. Sir, I don't have that information at my fingertips, but I would be happy to present it to the committee upon request.

Senator METZENBAUM. Well, that's understandable. Does anything stand out in your recollection where the Inspector General—we read regularly about the inspector general of the Department of Defense, the inspector general of various other agencies, who take a pretty strong position about the agency with which they are working, but often are critical.

Here is an agency that has been in the public eye for a considerable period of time, with some questions raised and two presidents resigning. What I'm really asking, has the Inspector General's office done anything that the public can feel assured that when you are elevated to this position that we know that you'll be looking out for the public weal?

Mr. MILLER. Yes, sir, I think he has done so. And as an example of some of these internal audits, we have looked at cash disbursements, travel expenses, relocation reimbursement, telephone expenses, the lease on the office space of the Corporation, contracts generally, retirement and savings funds, and that kind of thing.

Senator METZENBAUM. Well, Mr. Miller, I am not going to press you on the subject. I said to you originally that I think you have a very distinguished background. I hope that you provide some aggressive leadership. I know that you're only the deputy, but the fact is you are still in a position to do that.

I think there is considerable concern about the SFC. You know that there is legislation in the House that pretty much would

emasculate the SFC in its present form, and there may be some introduced in the Senate as well.

But while you're there, I'd hope that you would provide that same kind of aggressive leadership that you have performed in other public offices, and I hope that when you're done, since you received the distinguished unit citation from the CIA, I would hope we might give you a similar one for your efforts on behalf of the public at the SFC.

Mr. MILLER. Thank you, sir.

The CHAIRMAN. Thank you, sir.

Senator Rockefeller.

Senator ROCKEFELLER. No questions.

The CHAIRMAN. Senator Ford.

Senator FORD. Mr. Chairman, I have one question. I will follow up on Senator Metzenbaum.

Mr. Miller, are you familiar with the provisions of the legislation that authorized the Synfuels Corporation and the officers of that entity?

Mr. MILLER. Sir, to what are you referring?

Senator FORD. Well, the legislation that was pounded out by Congress in order to develop or authorize the Synfuels Corporation.

Mr. MILLER. Oh, yes, sir.

Senator FORD. Didn't Congress authorize the level of salary beyond the executive one subject to the approval of the President of the United States?

Mr. MILLER. Yes, sir, that's right.

Senator FORD. So whatever salary is there, Congress has already authorized it?

Mr. MILLER. That is correct.

Senator FORD. And the pressure valve was that salaries were to be signed off by the President of the United States?

Mr. MILLER. That is correct, sir.

Senator FORD. So whatever we do there that relates to salaries, Congress has already approved that, subject to the approval of the President of the United States?

Mr. MILLER. Yes.

Senator FORD. Thank you, sir.

The CHAIRMAN. Thank you.

Are there any further questions of this nominee?

[No response.]

The CHAIRMAN. If not, Mr. Miller, thank you very much for your testimony here this morning.

Mr. MILLER. Thank you, Mr. Chairman.

The CHAIRMAN. I would next recognize the distinguished Senator from Alaska, Mr. Murkowski, who will introduce our next nominee.

STATEMENT OF HON. FRANK H. MURKOWSKI, A U.S. SENATOR FROM THE STATE OF ALASKA

Senator MURKOWSKI. Thank you, Mr. Chairman. It may be appropriate that I remove myself from this side of the table to join my friend and the nominee.

Senator METZENBAUM. Are you coming over to this side?

[Laughter.]

Senator MURKOWSKI. Well, it depends on what the offer might be.

However, I will stay where I am, on the advice of the Chair.

The CHAIRMAN. The Senator is perfectly welcome to make the statement from whichever location he prefers.

Senator MURKOWSKI. I appreciate the flexibility of the chairman.

I have the honor today of introducing Mr. William P. Horn of McLean, VA, as the President's nominee for the position of Assistant Secretary for the Interior for Fish and Wildlife and Parks. This is a very special assignment for me, because Bill is not only an outstanding nominee, he's a long-time acquaintance of mine and an extraordinary friend of Alaska.

Bill has more than 15 years of experience working with natural resource issues in the Department of Interior, the Department of Commerce, and the House Interior Committee. Bill Horn was one of the first people that I had an opportunity to meet when I came to Washington early in 1981. At that time, my colleague, the senior Senator, Senator Stevens, asked me to join with him in supporting Mr. Horn for the position of Deputy Under Secretary of Interior. In that position, Mr. Horn was charged with the primary responsibility for implementing the newly enacted Alaska Lands Act and for coordinating the Department's program in Alaska.

As the chief spokesman for Interior on Alaskan issues, Bill achieved a reputation for fairness, integrity, and professionalism, and continually demonstrates his understanding of the complexities of these issues, and indeed to achieve a balance between the demands made by competing interests.

I can remember quite vividly, when I assumed a position on this committee, Bill came to me and the senior Senator, Senator Stevens, with a list of unresolved issues concerning Alaska. I had an opportunity to recently review that list and I see that most of the issues have been resolved favorably.

The most notable of these accomplishments is the transfer during the past 4½ years of more than 40 million acres of land from Federal Government control to State ownership as authorized by the Statehood Act and the conveyance of more than 20 million acres of Alaska native corporation lands under the Native Claims Settlement Act. As a matter of fact, Mr. Chairman, more land has passed under the stewardship of Mr. Horn than previous in the 24 years of statehood prior to Mr. Horn's active participation in the process.

As Assistant Secretary, Mr. Horn will be in charge of national park programs and fish and wildlife programs. This is particularly important for Alaska because, Mr. Chairman, we have 57 million acres of national parks and 75 million acres of wildlife refuges. Two-thirds of our national parks acreage and nearly three-quarters of our wildlife refuge land is in Alaska.

Every opportunity I get to point out the significance of the size is one that I don't fail to do, because a significant portion of our State is dedicated to national parks and wildlife refuges. I think it's interesting to reflect on the fact that 15 percent of the land in Alaska is in the national parks system, more than 20 percent is in the national wildlife refuge system.

As such, Bill Horn will have the jurisdiction over 35 percent of the land mass of Alaska. His decisions will have an immense impact on Alaskans. Because of his past experience with Alaskan issues, I am confident that those decisions will rest upon a sound understanding of Alaska's unique nature.

His knowledge of Alaska will be particularly helpful as the Department of Interior and this committee as well is confronted by future decisions in my State, including questions like to what extent should oil and gas exploration and leasing be pursued in the Arctic National Wildlife Refuge, or what should be done with the Alaskan Native Land Claims Settlement Act in 1991, when the stock is transferred?

I am confident that Bill Horn will continue to provide important insight to us on these other matters. His record of success in resolving these controversial disputes is indicative of the skills which he brings to his work, among these the United States-Canada Salmon Treaty, which had been negotiated on and off for the past 20 years. Bill's involvement was most significant in bringing about a favorable resolution.

His personal experience will be a significant asset to the Department of Interior, to the Nation, in the coming years. Our national parks are faced with the ever-increasing use by the public at the same time that general revenue funding for the maintenance of those parks is shrinking. Balancing the demands of the public with the need to reduce the Federal deficit and to protect the natural resource enshrined in the national parks and wildlife refuges requires considerable skill and ability.

Mr. Horn has demonstrated that he possesses these qualities in abundance. His professional accomplishments, as I have indicated, are numerous, but his personal achievements are also impressive. While he was serving as Interior's Alaskan expert and chief negotiator, he found time to earn his law degree and pass the bar exam. He and his wife have also become the proud parents of two sons, Mike and Alex, during that time. I am rather suspicious how he found additional time to become an expert fly fisherman and duck hunter, but I will leave that to your imagination, Mr. Chairman.

I want to congratulate him on all of his accomplishments and extend my best wishes as he takes on his new position as Assistant Secretary for Fish and Wildlife and Parks. Mr. Chairman, in conclusion, I can think of no other nominee that brings with him the credentials that Bill Horn brings before this committee. I encourage you and the other members of the committee to give him your most favorable consideration.

Mr. Horn, I think you have some special guests that you might like to introduce before the committee, including Mrs. Horn. Would you care to do that, please.

Mr. HORN. Yes. If I might, my wife Susan Shekmar and her parents, Mr. and Mrs. Shekmar, down from Philadelphia.

The CHAIRMAN. I want to express the committee's welcome to your wife and her parents here. It is always nice to have members of the family both interested enough and able to attend these hearings. Thank you for being here.

Mr. Horn, the rules of the committee which apply to all nominees for positions within the executive branch that appear before

this committee are that they be sworn in connection with their testimony. Will you please rise and raise your right hand.

[Whereupon, William P. Horn was duly sworn by the chairman.]

The CHAIRMAN. Please be seated.

Mr. HORN. Thank you.

The CHAIRMAN. We do address four questions to all witnesses who appear before us for confirmation to positions in executive agencies and branches of Government, and I'd like to ask those questions of you before your comments or testimony.

Will you be available to appear before this committee and other Congressional committees to represent departmental positions and respond to issues of concern to the Congress?

Mr. HORN. Yes, sir.

The CHAIRMAN. Your informational statement has been submitted to the committee. However, it is required that this statement be made public unless the committee decides that special circumstances justify an exception. Do you have any objection to the publication of your informational statement?

Mr. HORN. No, sir.

The CHAIRMAN. Are you aware of any personal holdings, investments, or interests that could constitute a conflict of interest or create the appearance of such a conflict should you be confirmed and assume the office to which you have been nominated by the President?

Mr. HORN. I am aware of no potential conflicts.

The CHAIRMAN. Are you involved in or do you have assets held in blind trusts?

Mr. HORN. No, sir.

The CHAIRMAN. Mr. Horn, you may proceed with your statement.

Mr. HORN. Thank you, Mr. Chairman. I would ask that my entire statement be entered into the record.

The CHAIRMAN. It will be entered into the record in full. You are invited to summarize.

Mr. HORN. Thank you.

Senator METZENBAUM. Mr. Chairman, just one word. I wonder if you would be good enough to explain to me, and perhaps the witness may want. Mr. Horn is presently Deputy Under Secretary of the Department of the Interior. I have been here long enough, I probably ought to understand these things. But it would seem to me that we are not bumping him up, we are bumping him down to be Assistant Secretary of Fish and Wildlife and Parks.

I wish somebody would sort of explain that to me, because I don't understand. With all the Deputy Under Secretaries and the Assistant Secretaries of a particular Department, within the Department of the Interior, I confess I'm confused. So if you or the witness will explain it, I just want to know whether we are kicking him downstairs or bumping him upstairs.

The CHAIRMAN. Senator, I am not sure that I can dispel confusion or explain the inexplicable, which is really what you're talking about when you look at organizational charts of several departments.

The office of Deputy Under Secretary is that in essence a special assistant to and is not subject to the confirmation powers of this committee. The job to which he has been nominated is subject to

confirmation by this committee, with much more specific and well-defined duties.

Senator METZENBAUM. And more money?

Senator MURKOWSKI. That's what I was going to suggest. Maybe we should ask him if he's getting an increase or a decrease, and that'll pretty well solve your question. [Laughter.]

Senator METZENBAUM. Mr. Horn, maybe you ought to really just tell us a little bit why this is.

Mr. HORN. Presently, right now, there are three—no, two Deputy Under Secretaries. We serve as deputies to the Under Secretary who, of course, is the No. 2 individual in the Department and in that sense, we do not possess any direct line authority over the bureaus. We are, in essence, senior special assistants and are Secretarial appointees, not Presidential appointees. But the primary difference is that we have no line authority over the agencies, and as Secretarial appointees were not subject to the confirmation process.

Senator JOHNSTON. If I may interrupt, I think of all the Assistant Secretaries, this is probably the one that has the most sensitivity to the environment than any other. They control wetlands, they even control duck hunting. Do you think that's not important?

Senator METZENBAUM. Yes, that's very important, I understand.

The CHAIRMAN. You may proceed, Mr. Horn.

STATEMENT OF WILLIAM P. HORN, NOMINEE TO BE ASSISTANT SECRETARY FOR FISH AND WILDLIFE AND PARKS, DEPARTMENT OF THE INTERIOR

Mr. HORN. Thank you, Mr. Chairman.

Mr. Chairman, distinguished members of the committee, I am William P. Horn, and I am honored to appear before you today as President's nominee as Assistant Secretary of the Interior for Fish and Wildlife and Parks. If confirmed, it will be a privilege to serve in this position, since I consider it to be the finest job in the Federal Government.

The opportunity to work on behalf of our vital fish, wildlife, and park resources promises great challenges and rewards and I pledge to commit my best efforts on behalf of these critical resources.

As Senator Murkowski indicated, I have been involved in natural resource issues for 15 years. For 7 years I worked for Congress on energy and environment matters, including 4 years on the staff of the House Committee on Interior and Insular Affairs. During that particular period, I had the opportunity to work closely with this committee. I hope that this past contact will provide the basis for a close working relationship between us in the future.

I have been fortunate during this tenure to have had a broad range of responsibilities, especially during the last 4½ years at Interior. In 1982, the President named me to the International Great Lakes Fishery Commission, and I was elected chairman of that body in 1984.

One of my primary responsibilities since 1981 has been to serve as the Department's chief negotiator on various Indian disputes involving fishing rights, water claims, and land claims. In this context, I have participated in the successful settlement of a number of protracted controversies. These include the United States-

Canada Pacific Salmon Treaty and its ancillary domestic agreements, the Michigan Great Lakes Treaty Fishing Agreement, the Chugach native land claims in Alaska, and major Indian water settlements involving the Ak-Chin, Ft. Peck, and Papago tribes.

Last, I have been charged with coordinating the Department's programs in Alaska, principally the Alaska Native Claims Settlement Act and the Alaska Lands Act of 1980.

This professional experience has taught me much about the decisionmaking process, including the need for close consultation with Congress, the value of communication and negotiation, and the recognition of the public's role in the management of its natural resources. During the past years my door has always been open to those who wanted to chastise, praise or, most importantly, educate me. I can assure you that my door will remain open and the telephone operable.

Additionally, Secretary Hodel has pledged to seek to build a national consensus on the broad policy matters within the Department's jurisdiction. I hope to be able to make a significant contribution to that important effort.

Beyond my professional responsibilities, I have a keen personal interest, almost a vested interest, in our fish, wildlife and park resources, and have long considered myself a conservationist. I have spent many hours and years working in the private conservation community, and frankly, I sought a career in resource management because of my outdoor avocations.

I am therefore hopeful that the heartfelt appreciation I have for the out of doors and our natural resources will assist me in fulfilling the duties of Assistant Secretary.

It almost goes without saying that our fish, wildlife, and parks are critical. The President recognized this when he made it clear that his first goal for the Department is preservation of the Nation's national park, wilderness, and wildlife resources. These are unique, irreplaceable resources, of which we are the trustees. We have a major obligation to manage them carefully so that they may continue to provide the enjoyment and sense of awe that we feel, to our children and subsequent generations.

It is imperative, therefore, that the basic integrity of our park and refuge systems be ensured and maintained.

Conservation is the credo of prudent use, and our natural resources can and must be used to provide us a high quality of life. The renewables must be managed and conserved so that they can continue to produce in the future. The nonrenewable resources must be husbanded and used judiciously, and it is imperative that resource use be done in a manner that protects the health and well-being of our natural systems. This is not only a matter of simple survival, but it is necessary to ensure the quality of experience and sense of recreation that we derive from our natural systems.

Now, these precious resources face growing pressures from population, economic constraints, and such. As I have long believed that necessity is the mother of invention, I am persuaded that our present problems create opportunities for innovative solutions and should not give rise to undue pessimism. When we are pressed by events, we discover new means to achieve our goals. And in critical

areas such as land acquisition, visitor services, habitat protection and enhancement, financing and system expansion, efficient new ways of achieving agreed-to objectives must and will be found.

I look forward to working with you and the Congress on the development and implementation of innovations. The opportunity to serve as Assistant Secretary of Fish, Wildlife and Parks is exciting. If confirmed, it will be an honor and a privilege to work for Secretary Hodel and with the Congress, the States, and the public in protecting, perpetuating, and enhancing the fish, wildlife and park resources that are of great value to America and the envy of the world.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Horn follows:]

Statement Before Senate Committee on

Energy and Natural Resources

Mr. Chairman, distinguished Members of the Committees: I am William P. Horn and I am honored to appear before you as President Reagan's nominee as Assistant Secretary of the Interior for Fish and Wildlife and Parks. If confirmed, it will be a privilege to serve in this position since I consider it to be the finest job in the Federal Government. The opportunity to work on behalf of our vital fish, wildlife, and park resources promises great challenges and rewards, and I pledge to commit my best efforts on behalf of these critical resources.

I have been involved in natural resource issues for 15 years. For seven years, I worked for Congress on environment and energy matters including four years on the staff of the House Committee on Interior and Insular Affairs. During that particular period, I worked closely with this committee. I hope that this past contact will provide the basis for a close working relationship between us.

In addition, I have served six years in the executive branch, primarily with the Department of the Interior. There I have been involved in myriad issues including Pacific Salmon negotiations in the northwest, Indian water claims in the southwest, the Great Lakes fisheries management and Alaska energy and environmental

issues. My tenure as Deputy Under Secretary has taught me much about the issues I will face if confirmed.

I have been fortunate to have had a broad range of responsibilities during the last 4 1/2 years. In 1982, the President named me to the international Great Lakes Fishery Commission and I was elected chairman in 1985. In this capacity, I have had the opportunity to work on our major fishery programs in the Great Lakes with eight States, the Province of Ontario, and the Government of Canada. One of my primary responsibilities as Deputy Under Secretary has been to serve as the Department's chief negotiator on various Indian disputes involving fishing rights, water claims, and land claims. In this context, I have participated in the successful settlement of a number of protracted controversies. These include the U.S.-Canada Pacific Salmon treaty and its ancillary domestic agreements, the Michigan Great Lakes treaty fishing agreement, the Chugach native land claims in Alaska, and major Indian water settlements involving the Ak-Chin, Ft. Peck, and Papago tribes. Lastly, I have been charged with coordinating the Department's programs in Alaska. Principally involving Alaska Native Claims Settlement Act and Alaska National Interest Lands Conservation Act. This last effort has made me

intimately familiar with National Park and National Wildlife Refuge matters as nearly two-thirds of our Park system acreage and three-quarters of our refuge system lands are located in Alaska. In this capacity, I have negotiated a series of land exchanges, selection relinquishments and donations that have added approximately 1.2 million acres to our Park and Refuge systems at no cost to the Federal Treasury.

My professional experience has also taught me much about the decisionmaking process including the need for close consultation with Congress, the value of communication and negotiation, and the recognition of the public's role in the management of its natural resources. During the past years my door has always been open to those who wanted to chastise, praise, or--most importantly--educate me--I can sssure you that my door will remain open (and the telephone operable). Additionally, Secretary Hodel has pledged to seek to build a national consensus on the broad policy matters within the Department's jurisdiction. I hope to be able to make a significant contribution to that effort.

Beyond my professional responsibilities, I have a keen personal interest--almost vested interest--in our fish, wildlife, and park resources and have long considered myself a conservervationist. I have been a avid angler since I was a child and have committed

many volunteer hours during the past 15 years working on behalf of our cold water fisheries.

Similarly, I am a bird hunter and have been an active member of organizations committed to conserving and enhancing our wildlife. I sought a career in resource management because of these avocations and I am hopeful that the heartfelt appreciation I have for the out-of-doors will assist me in fulfilling the duties of Assistant Secretary.

It almost goes without saying that our fish, wildlife, and park are critical. The President recognized this when he made it clear that his first goal for the Department is preservation of the Nation's national park, wilderness, and wildlife resources. These are unique, irreplaceable resources of which we are only the trustees. We have a major obligation to manage them carefully so that they may continue to provide the enjoyment and sense of awe that we feel to our children and subsequent generations. It is imperative, therefore, that the basic integrity of our Park and Refuge systems be ensured.

Conservation is the credo of prudent use and our natural resources can and must be used to provide us a high quality of life. The renewables must be managed and conserved so that they can continue to produce. The non-renewable resources must be husbanded and used judiciously. And it is imperative that resource use be done in a manner that protects the health and well-being of our natural systems. This is not only a matter of simple survival but is necessary to ensure the quality of experience and sense of re-creation that we derive from our natural systems.

Despite growing knowledge and improvements in our ability to scientifically manage our resources, a sense of pessimism has arisen from some quarters of the natural resources community. There is fear that increased population and the popularity of some of our park and wildlife resources will overwhelm them. Add to that the economic reality faced by government land managers, and some are sure that doom is imminent. I beg to disagree. I have long believed that "necessity is the mother of invention" and am persuaded that our present problems create opportunities for innovative solutions. When pressed, we discover new means to achieve our goals. In critical areas such as land acquisition, visitor services, habitat protection and enhancement, financing, and system expansion, efficient new ways of achieving agreed to objectives must and will be found. Let me add that I believe most

of us sense a new "can do" attitude in the National Park Service. I hope to take advantage of that frame of mind and look forward to working with you and the Congress on the development and implementation of innovations.

The opportunity to serve as the Assistant Secretary of Fish, and Wildlife, and Parks is exciting. If confirmed, it will be an honor and a privilege to work for Secretary Hodel and with Congress, the States, and the public in protecting, perpetuating, and enhancing the fish, wildlife, and park resources that are of great value to America and the envy of the world.

Thank you.

The CHAIRMAN. Thank you, Mr. Horn.

Senator MURKOWSKI. Mr. Chairman, may I make a brief observation? I neglected to indicate in my opening remarks and introduction of Mr. Horn, that Mr. Horn's nomination has been given dual referral.

Mr. Horn was earlier today at a meeting of the Environment and Public Works Committee where he was introduced by the senior Senator, Senator Stevens, who obviously gave him a very strong endorsement.

Thank you, Mr. Chairman.

The CHAIRMAN. Surely; and I think that dual referral is an attempt at recognition on the part of the committees of the Congress, of the breadth and the importance of the responsibilities of this job.

Mr. Horn, I don't know that I have any particular questions, but I can't help but make a comment with respect to the national parks. Having served for over 18 years in the other body and in this, on the committees dealing with national parks, we have seen the greatest explosion of national park activity in the history of our country, a record that's unmatched in any other period of our history or in any other place in the world; an effort on the part of the American public to identify and set aside for the enjoyment, use, and preservation of the American public of various kinds of natural and modified settings.

We also, in the same period of time, saw the budgets being constrained as our appetite to acquire, our necessity to acquire, outstripped our ability to pay for all of that acquisition. We went through a period of time when, with actions which I supported, we put almost all of our money into acquisitions, so the irreversible change would not occur in areas that we wished to set aside.

That was a calculated policy, with calculated risks inherent in it.

The result was that the development side of the national park budget and program suffered. The promises that were made to people in the localities when a park was created were not kept. The economic activity that was to be a substitute for the natural resource economic activity that otherwise would occur in those lands never came forward because the Federal Government could not make the investments that were promised at the time.

The facilities, where facilities existed, deteriorated to a deplorable state and, in some instances, where health and public safety was threatened because of their condition.

The natural condition suffered where the public use outstripped the capacity of the facilities to handle the public use. And we began to see the necessity both of restricting human use—the volume, the place, the kind, and intensity of public use—and also began to recognize increasingly the need to make the investment in the capital structures that were necessary for that human use in order to preserve the features which we sought to preserve, in order to make them available for the human use that is a mandate of the park system.

We have in recent years reversed that priority, and again, I supported that—I have supported that policy to make the investment, certainly, in those areas where it was necessary to meet the demands of public health and safety. And we have done much in the

last several years to remove the hazards to public health and safety.

We have not been able to apply enough money to meet the demands of the development schedule for the national parks. We sometimes still fail to keep the pledge that was made by the Congress when the parks were created. We still sometimes fail to minimize the impact of human usage upon the natural features of such parks where the human use destroys or impacts adversely the very thing we're trying to preserve as we set aside those areas.

And we are under budgetary constraints now, a $200 billion deficit the Congress has not yet been able to resolve and we struggle every day to try to find some balance with that.

Do you have any clear sense of direction as we undertake this challenge as to how we strike the balance between the budgetary constraints, the expenditure requirements, the exclusion of human use, the limitation of human use, the development of the visitor centers and the infrastructure necessary for the use and enjoyment of the parks, and the acquisition schedule, all of which have backlogs?

Mr. HORN. Mr. Chairman, in some respects, I'm fortunate that we have gone through these cycles of primary focus on land acquisition, and we have just completed the Park Restoration Improvement Program, the PRIP program, and we've completed that after 4 years of essentially earmarking our resources in the direction of park restoration and improvement of our visitor facilities, which as you rightly indicate, had gotten into deplorable condition.

I think now that we've completed both of those cycles, we're in a position to strike an appropriate balance on these fronts. And I know in that context, one thing that's important will be to develop within the park system a very solid, workable maintenance program to ensure that we are continuing to commit sufficient resources on an annual basis so that 5 years or 10 years from now we don't have to go through another PRIP program after GAO admonishes us for letting health and safety problems creep into our park facilities.

On the land acquisition side, similarly I think it's important that the Service—both services, frankly—develop strong priority systems to identify the lands that are needed according to objective criteria so that we can find out which lands are necessary to deal with to protect the fundamental park resources or refuge resources.

Once we have identified those lands, I think it's also important that we identify what interest we need to acquire. In many cases we don't need to acquire costly full fee. Simple scenic or conservation easement might be sufficient, or an access easement might be sufficient in some cases.

I think that once we have designated and determined what it is we think we need, I think it's necessary for us to try to operate within the existing fiscal constraints to try to seek innovative ways of acquiring the interest that we need without major impacts on the Federal Treasury.

Many private conservation groups have been exceedingly successful in low-cost, land-acquisition projects or innovative, land-acquisition projects, conservation projects. I know that in the Alaska con-

text, in the past 4½ years, I've been able to work on a series of land donations, selection relinquishments and exchanges that have added over 1 million acres of land to the park and refuge systems in Alaska at no cost to the Federal taxpayer. And I would hope that I would be able to employ similar approaches in our lower 48 units so that we can acquire necessary acreage at very, very minimal cost.

I think that's the general direction that I'd like to proceed, given the sensitivity of these subjects and the budget impacts that some of them have. I would also hope to be able to work very closely with the authorizing and appropriation committees on making sure that the priority systems that we put together and the directions that we want to take have a general sense of agreement. I think that will fit in with Secretary Hodel's pledge to try to seek consensus on some of these major issues.

The CHAIRMAN. Thank you very much.

Senator Johnston.

Senator JOHNSTON. I thank you, Mr. Chairman.

Mr. Chairman, as I said a little earlier, I think this is one of the most important jobs in the Federal Government. It is tremendously sensitive because unless you do your job right, then all those great resources of the United States, the parklands, wildlife refuges, our wildlife resources are at risk.

I will support Bill Horn, Mr. Chairman, because I think he's very well suited by background, by experience, by temperament, and he has a good record of working on these very sensitive issues. We know, because we have worked in this committee on these issues with him, and I think he's very well suited.

I am particularly pleased to hear you pick on a theme you and I discussed earlier about the fact that in land acquisition, you don't always have to acquire the fee on parkland. We have seen, I think, a lot of money wasted—in my view at least—on parks like Big Cypress, on Santa Monica Mountains and Seashore National Recreation Area, in acquiring the fee, when really what we were trying to protect is something that did not involve the recreational use of land in either of those parks. It could have been acquired at much less cost and thereby leave some of those very scarce financial resources to acquire some of the other land that needs to be acquired in fee.

And I think that ought to be a major thrust of what we do.

Now, Mr. Horn, I have some written questions, but I'd like to ask you just a couple of oral questions. Can you tell me your views on changing the visitors' fees, increasing the visitors' fees in our national parks and wildlife refuges?

Mr. HORN. I think that the fee issue is an important one that needs to be addressed. In the case of the Park Service, many of these fees have been frozen for years and notwithstanding increases in the cost of living, inflation and such, it still costs $2 to take a carload of folks into Yellowstone. It costs us $4 to take somebody to a movie.

I think that there are opportunities there to restructure our fee arrangements primarily on the park system, to see that if we can acquire some additional funds, that could largely be used for the benefit and improvement of the system. I know that hearings have

been held recently before the committee on this issue. I know that Director Mott was testifying. It's something that we are very interested in and, given the long-term interest of this committee and Congress as a whole in this issue, that we move in the direction of seeing if we can put together a reasonable fee system. It's one area that I intend to be in very close working contact and relationship with this committee and other interested Members of Congress to make sure that we put something together that, frankly, can fly, that gets the job done.

Senator JOHNSTON. I would guess you won't find a great deal of enthusiasm on this committee for the fee schedule. We understand you've got your marching orders, that everything's got to be a user fee. I guess we are going to see toll roads next.

But I don't think there's, as I say, a lot of enthusiasm for increased user fees, at least not very much of an increase.

What will be your first priority for the National Park Service, if confirmed?

Mr. HORN I think the first priority would—really, a couple of things coming together. I think that that sense of balance between the maintenance program—and when I use maintenance, I'm using it in the broadest sense of both our visitor facilities and trying to maintain and ensure the protection of our natural resources, and at the same time balance that, of course, with our need in some cases to acquire some of the in-holdings and additional lands to protect some of these fundamental resources.

So I think to work out that appropriate allocation of our finite managerial and fiscal resources to achieve the necessary balance to fundamentally protect the resources of the park unit, because without the resources there's nothing there for the public to really enjoy.

Senator JOHNSTON. Let me urge you, as I did Secretary Hodel, to continue to have some money for additional land acquisitions in the park system. Initially in this administration they zeroed that out, and in the Appropriations Committee and later in the full Congress we were successful in putting in money for additional land acquisition.

In spite of the fact that we have this huge Federal deficit, we simply cannot afford to lose some of these park resources which would be lost without that. I know Secretary Hodel is sensitive to that and I hope you will be as well.

I have one final question. What role would you play with the President's Commission on Outdoor Recreation Resources Review?

Mr. HORN. That I am not sure yet. I would hope to be able to work closely with the Commission. I have met with Mr. Ash to talk about some of the staffing requirements and what the Department might do to help from my current position. I think that that Commission is very important. I think anybody who's been in this field knows how important the original Outdoor Recreation Commission some years ago was in putting together a program that was largely codified in statute adopted by Congress that is the basis of our current recreational programs.

I think it's time for a new review and hope to be very active and work with them. It would be useful and helpful if this new Com-

51-869 O—85——2

mission has the impact on our recreational and resource policy that the original Outdoor Recreation Commission did.

Senator JOHNSTON. Thank you, Mr. Horn.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Murkowski.

Senator MURKOWSKI. Thank you very much, Mr. Chairman.

Mr. Horn, I want to take the opportunity to alert my colleague, Senator Metzenbaum. We have had some colloquies on the floor concerning the implementation of title 11. In the interest of full disclosure, my friend the Senator from Ohio, who has asked me repeatedly for assurances that the Department of the Interior would move on title 11 as opposed to bringing up such things as the Red Dog land exchange of Cape Krusenstern, which was reported out of this committee unanimously but in the final passage again was questioned by my friend from Ohio as to why the Department of the Interior is not promulgating these regulations.

And I am sure that we would both be interested in some detailed explanation because, very frankly, I don't think Senator Metzenbaum was happy with my excuses, and perhaps you can shed some light on this so that I won't be subjected again to his inquiries as to why Interior has been inactive in this regard.

Mr. HORN. My answer might lead me somewhat into an internal conflict, but we have been moving on the regulations that were promulgated in draft form in 1983. We put them out for a maximum of 6 months comment period, conducted public hearings. We have gotten extensive comments back because of the importance of the regulations, and we were moving through 1984 to put together a package to take to the Secretary for his final decision.

As I think the committee is all too well aware, in the change from 1984 to the present year we got a new Secretary. We're about to have a new Assistant Secretary for Fish, Wildlife, and Parks. We just got a new Director for the National Park Service, and some day soon we hope to have a new Assistant Secretary for Land and Minerals.

All of these individuals and positions are the ones that basically have to be involved in the decisionmaking process on the final rules on title 11, and it was just an internal decision that it would be inappropriate to move those regulations through until we got the primary land managing policymakers on board so they'd be in a position to advise our new Secretary Hodel.

So really, it's been the personnel changeovers that have slowed the process down.

Senator MURKOWSKI. I appreciate that, but I think it fair to alert the Department of the Interior that it's getting much more difficult to pursue under ANILCA the exchange process when there is a provision for the establishment of regulations. I know of the sensitivity of my colleagues, as indicated by the colloquy which Senator Metzenbaum and I have had.

The question next is: Do you have any idea when we might expect to have an opportunity to have these regulations before us? I fear that the process currently pursued, which is a legislative process, may be stymied by Congress' impatience with the charge of Interior to implement these regulations.

Mr. HORN. I think the fact that, of all the positions I have just outlined, if I am confirmed by the Senate, we would only have one vacancy—that of course is presently filled by an Acting Assistant Secretary—and I think that would permit us to move forward. We've got the players and the personnel on board now, so I think we are prepared to move. Given the fact that we have done most of our homework, I think we will be prepared to move rapidly.

Senator MURKOWSKI. I recognize that you can't speak for Secretary Hodel, but I think it's important that the record should indicate the necessity of pursuing this, because I can't explain to Senator Metzenbaum why this is done. Senator Metzenbaum has indicated that he is going to be a little reluctant to support our efforts to continue the way we have been, and it's the only relief we have. So we're going to get caught in a catch-22 perhaps, and I think the responsibility has to rest with the Department of the Interior.

If you have any comment, Senator Metzenbaum, at this time on this issue. I don't want to give up my right to question the witness, of course.

Senator METZENBAUM. I do, thank you, and I understand.

The answer is, Senator Murkowski has certainly raised the issue that I intended to raise. The question now is, as you've said all the changes and all of the problems that have occurred: Query: When will the regulations be issued?

Senator MURKOWSKI. I just asked that question.

Senator METZENBAUM. Oh, I'm sorry.

Mr. HORN. Without speaking for the Secretary, who will make the final decision, I think we will be in a position to get the package that was all nearly put together around December, January, when all the changes started—I think we'll be able to resurrect that in fairly short fashion. I would expect to be in a position to present that to the Secretary probably some time in September, and then essentially it's up to him.

But I think some time this fall is very, very highly probable time to get these promulgated in final form.

Senator METZENBAUM. Will the Department withhold support for additional Alaska land exchanges until you issue the final regulations?

Mr. HORN. Not all the land exchanges have anything to do with rights-of-way. We have many land exchanges that are pending.

Senator METZENBAUM. I mean those to which the regulations would be applicable if they were in effect.

Mr. HORN. Yes, I think we can commit to that.

Senator METZENBAUM. I appreciate that, and I will step aside.

Senator MURKOWSKI. That pretty well takes care of me in the meantime.

Senator METZENBAUM. What did you say, Senator?

Senator MURKOWSKI. I said that pretty well takes care of me in the meantime.

I have a couple of other very quick questions. I am sure you are aware, Mr. Horn, of pending legislation to establish a Korean War Memorial on public lands which is before this committee. Do you see any difficulty and can you speak on behalf of the Interior Department on that matter?

Mr. HORN. Senator, frankly, I cannot at this time. I have heard of such a proposal, but I am not aware of whether or not the Department or the administration have been asked to take a position and, if we have been asked, if we have taken a position. I can check it out and get back to you.

Senator MURKOWSKI. I would appreciate that. As chairman of the Veterans Committee, it is of great interest to me and the veterans organizations of this country, and particularly the Korean War veterans, who have no memorial.

Also, since it is pending before the committee, it's an appropriate item that involves utilization of public lands, very quickly can you give us some idea of the status of the unescrowed moneys that are owed to the Alaska regional and village corporations? I know you have been involved in this. It's Section 1411 of ANILCA. When we might expect disbursement?

Mr. HORN. Well, frankly, it's up to the Appropriations Committee in some measure. As you know, the Secretary has written to you and the committee outlining our support for obtaining at least part of the funds, at least those aspects of the liability where have reached agreement as to how much we owe.

We have officially transmitted our request to the Office of Management and Budget, so that this essential budgetary addon could be considered by them and of course their support transmitted to the Congress as well.

Senator MURKOWSKI. That's the easy part of the question. The difficult part is: Have you resolved a formula interest on the escrowed funds?

Mr. HORN. We are still negotiating on that particular issue.

Senator MURKOWSKI. Who do you negotiate with?

Mr. HORN. Well, we've been talking primarily with the Cook Inlet region, because they are primarily the affected native corporation.

Senator MURKOWSKI. Isn't it ultimately your decision? And when I say "you," I mean the Department of the Interior is going to have to make a decision on what formula, and they're either going to litigate it or not?

Mr. HORN. Yes, it is.

Senator MURKOWSKI. When do you anticipate resolving the formula process? I can appreciate that the answer on funding depends on the appropriation, but the formula.

Mr. HORN. Well, frankly, if we just wanted to take our lawyers at face value we could have made a decision on the interest right now that would not have been very well received by the Native Corporations to whom we owe this money. And so, rather than just make a decision by fiat and get a lot of people angry, we've been seeing if we can negotiate and resolve any differences we have in a mutually acceptable fashion.

Senator MURKOWSKI. You can do that between lawyers on both sides? You have more faith in the system than I do.

Senator FORD. Well, you know, there have been a lot of things settled out of court.

Senator MURKOWSKI. Not lately.

Well, I would urge you to resolve the formula, because obviously it's part of the contention that is currently underway.

Another question: If you could indicate what the Park Service's interpretation is of section 1302 of ANILCA with regard to condemnation of Native allotment lands located in parks on the question of landowner consent? The general understanding was that it took consent of the landowner for the Park Service to implement and condemn Native allotment lands. Can you enlighten us a little bit on that?

Mr. HORN. My understanding of section 1302, which is the general exchange and acquisition authority of the Alaska Lands Act, is that the Department does not possess condemnation authority over inholdings that are either owned by the State or owned by the Native Corporations. The act is silent on the question of Native allotments, as to whether or not they should be treated as another form of Native land, exempt from condemnation, or should they be treated as private land, subject to condemnation.

Of course, the matter is complicated by the fact that in virtually all allotments the United States is the holder of the trust patent, and in some cases some people have argued that condemning ownership where we are the trustee is a violation of our obligation as the trustee. I think the general course that's been pursued in the past has been that the services do have condemnation over allotment lands, but I think it's authority that has been used extremely sparingly.

Senator MURKOWSKI. All right. The question, though, and the key one is the question of consent. In your opinion—or do you have an opinion currently on whether consent of the landowner is required or not?

Mr. HORN. I couldn't give you the legal opinion at this time.

Senator MURKOWSKI. Then the answer is no?

Mr. HORN. I do know that the act does not speak expressly to allotments.

Senator MURKOWSKI. And Interior at this time has not reached a decision on how they interpret the question of landowner consent?

Mr. HORN. Not that I'm aware of.

Senator MURKOWSKI. OK. We will appreciate, I think from the standpoint of interested parties, your addressing that matter.

Another quick question: What has been the cause of delay in the formulation of the subsistence resource commissions of the State?

Mr. HORN. We have set the commissions up and they were chartered, and a number of the commissions were met. And then, because of the way the Federal Advisory Committee works, the charters expired and we've basically gone through the rechartering process again. So that we have chartered them once, they expired, we're rechartering them again.

Senator MURKOWSKI. So as far as you're concerned, it's not a delay?

Mr. HORN. No. They have been established.

Senator MURKOWSKI. And the Government's moving right along in its usual expeditious manner?

Mr. HORN. Yes.

Senator MURKOWSKI. Lastly, can you give us assurances on how the Park Service plans to cooperate with these commissions and how the implementation of the recommendations in accordance with section 808 of ANILCA would be handled?

Mr. HORN. Well, we intend to work with the commissions. We have been working with them so far. The one park where the Subsistence Resource Commission is probably going to be the most sensitive involves the Gates of the Arctic Park, because that's different from the other Alaska parks in that all the other Alaska parks, with a few exceptions, were open to subsistence hunting essentially without any geographic constraints.

The legislation and the legislative history on the creation of Gates of the Arctic made it clear that not all of the 8 million acre park was to remain open forever for subsistence hunting. There were supposed to be limitations so that subsistence hunting could only continue in areas where that was a traditional activity, and of course there has been some disagreement so far between the Subsistence Resource Commission, local residents, and the Park Service as to what areas have been traditionally the site of subsistence hunting activities and therefore should remain open.

And that's something that the Park Service in Alaska is working on and trying to resolve at this moment.

Senator MURKOWSKI. Last—and I am sure you have heard this expressed by many Alaskans—the concept of management for management's sake was coined by somebody else, or something similar to that, some time ago. But with regard to some of the parks in the extreme northern wilderness, Gates of the Arctic and so forth, it's been expressed to me that there is more activity in the process of management than there is in actual visitors into the area; and the restrictions that are being put on airplanes flying, but those that patrol are the Park Service or contract carriers that are actually creating more activity than there would have been if there wasn't anything there, because there's not that much going on.

So I wonder if you are sensitive to this and the attitudes of some Alaskans who are observing the concentration of management concepts in the Park Service as opposed to the realization that you're dealing with a virtual wilderness that has very little penetration and the bears still eat the campers if they don't stay awake at night.

Mr. HORN. Well, having spent some time in places like Kivalina, Bettles, Ambler, and Kobuk, I have gotten all too sensitized to some of these concerns. Of course we have an obligation to ensure that the resources are being protected, and essentially that means aircraft and flying around. We try to make sure that our management activities are unobtrusive and not damaging to the resource, and of course not damaging to wilderness experience that people hike back into these remote areas to experience.

So it's a difficult kind of balancing act, but it's one that I've been somewhat sensitive to, because I've had my ear chewed on in some of these remote villages at different times.

Senator MURKOWSKI. Well, that comes from such sources as some of the taxi operators, who are very happy to haul the Park Service around, but they notice that the Park Service is three or four times the business that they are able to generate from private sector people who are trying to enjoy this wilderness experience at an extraordinary cost just because of its isolation.

Mr. Chairman, I have no further questions. I think that you and my colleagues would agree that the witness is extraordinarily

qualified in the area and his commitment and dedication, as expressed by his résumé, evidence him in good stead for the position. I certainly intend to support the nomination.

I congratulate you, hopefully not prematurely.

The CHAIRMAN. Thank you, Senator.

Senator Ford.

Senator FORD. Thank you, Mr. Chairman.

Let me say a couple of things. I want to associate myself with Senator Johnston's statement as to the sensitivity of the position and his support for the nominee. I join him in that.

Mr. Chairman, I am particularly pleased with one aspect of this nominee, and that's his age. He's only 34, and I am awful glad to see somebody who has dedicated himself and is interested in Government at your age, and you are not grey or bald. It seems like that's about all we get up here. [Laughter.]

I want you to know that I am awful proud to see a 34 year old who has been recommended sitting before us. I'm surprised this administration would deal with somebody so young, but apparently you've gotten through, and I want you to know I'm proud of you and I'm going to support you, just for no other fact. [Laughter.]

Mr. HORN. Thank you, Senator.

Senator FORD. Now I've got a couple of questions. Do you know anything about baseball?

Mr. HORN. I've been an avid fan for years.

Senator FORD. Well, do you know anything about RFK and giving it to the city of DC?

Mr. HORN. No, sir; I'm unaware of that.

Senator FORD. Well, I understand the Parliamentarian assigned that bill to this committee because it's an Interior problem, and so you'd better get acquainted with baseball. So just write it down.

The administration's in favor of giving RFK to DC. I don't know whether I am ready for that or not. I just wanted him to be alerted that he'd better learn something about baseball and the land out there.

Second, I have hunted grouse in eastern Kentucky, and boy, you have to be in awful good shape, because that seems to be the predominant area for grouse. And I am familiar with Trout Unlimited and Ducks Unlimited, but what's ruffed grouse? Is that all grouse ruffed?

Mr. HORN. No, no. Ruffed grouse is the name. I am a grouse hunter, too, and I assure you crawling up the ridges in the Appalachians is tough work. It's a wildlife society dedicated to management for the benefit of ruffed grouse and woodcock.

Senator FORD. Well, ours are rough, but I didn't know they were roughed.

Now I want to ask you a very serious question. It's obvious from the questions from the distinguished Senator from Alaska that you are very knowledgeable of that area, and probably the majority of your work will be dedicated to the State of Alaska. Will you give equal time to the lower 48?

Mr. HORN. Senator, yes, sir, more than equal time.

Senator MURKOWSKI. And Hawaii.

Senator FORD. And Hawaii. Well, Hawaii is special. You just leave them alone and they will handle their own. If you said, Ford,

you have to move away from paradise and go someplace else, I'd choose Hawaii. Now, that may be wrong with some other folks, but I'm in heaven and I'm enjoying Kentucky. But if I had to leave I'd go there.

So, Mr. Chairman, I am pleased with this nominee and I look forward to supporting him and hopefully getting him approved next week.

The CHAIRMAN. Thank you, Senator.

Senator Hecht.

Senator HECHT. Thank you, Mr. Chairman.

I want to congratulate Mr. Horn on his nomination as Assistant Secretary for the Department of the Interior. This is a very difficult job, and everything that I've heard about Mr. Horn indicates that he is capable and in fact relishes the opportunity to accept this challenge.

The No. 1 item on my agenda today is to discuss the recent Truckee River settlement in northern Nevada. For the past 70 years, people have been fighting court battles over water allocation in the Truckee and Carson River basins. It has all the ingredients of high drama: The oldest reclamation project in the Nation, a rapidly growing metropolitan area in the Reno's Forks, an economically depressed Indian tribe, and even a few endangered fish species living in the Truckee and Pyramid Lake.

Not surprisingly, the Department of the Interior found itself in the middle of this dogfight most of the time. To make a long story short, these battle-weary parties have finally agreed to a comprehensive settlement of their differences. For those of us who have been following the issue in Nevada, this settlement is nothing short of a miracle. It is imperative that Congress strike while the iron is hot and approve the necessary authorizing legislation to put this settlement into place.

This is where Mr. Horn comes in, and I'd like to ask you a few questions. Have you had a chance to review this issue in your present capacity at the Interior Department?

Mr. HORN. Secretary Hodel, because of my background as the Department's chief negotiator on many of these issues—I was not the chief negotiator on the Truckee situation—has asked me to review the draft legislation that has emanated from the settlement discussions. I have done that and provided him some comments.

I know that we will be meeting to review that proposed legislation this week.

Senator HECHT. Have you made any formal or informal input or comments on the proposed settlement as of yet?

Mr. HORN. I have just basically tendered some questions to those folks who have done the negotiations. Basically, what's the total cost of the package, what are the legal implications of some of the agreements that the Department would accept and obligations it would accept, what are some of the implications of the treatment of the endangered cui-ui and the threatened Lahontan cutthroat trout.

Just essentially some questions on that front that I think before the Department or the Secretary could make a recommendation he would want some of those questions answered. That's been the extent of my comments so far.

Senator HECHT. Only questions?

Mr. HORN. That's correct, basically directed to Mr. Broadbent and the others who have been directly engaged in the negotiations.

Senator HECHT. Viewed in light of the recent Papago and Ak-Chin Indian settlements, which I believe you helped negotiate, wouldn't you agree that the Truckee River settlement is a pretty good deal for the Federal Government, especially in terms of financial outlays?

Mr. HORN. I think that in a comparable sense, yes, given the fact that it's been in litigation since 1913, I hate to think what the lawyers bills have been over all these years. At first blush, the cost features look reasonable in the context of what's at stake. But my questions to Mr. Broadbent were: Are there any other hidden costs in here, so we can tell the Secretary at the bottom line what the Federal obligations are going to be if this were to be adopted?

Senator HECHT. I'm glad you mentioned the lawyers' fees, because it's absolutely bankrupting the Truckee TCID.

I cannot overemphasize how important this settlement is to all of the people of northern Nevada. The lawyers may starve for a few years, but I am sure that sooner or later they will find something else to do.

If confirmed as Assistant Secretary, will you promise to make the Truckee River settlement a real priority, and will you work diligently toward its legislative enactment?

Mr. HORN. Sir, working on it has already become a priority in my current position, and I can assure you that, given the fact that we have an endangered and threatened fishery issue involved, I will have to stay highly involved. And given the fact that the administration has made a commitment to try to settle these outstanding Indian water claims, and this will be I think the fourth or fifth one that we will have brought about, I can assure you it will be high on the list of items that I pay personal attention to.

Senator HECHT. You understand that these negotiations have been going on for over 50 years, and for the first time we have a possible agreement. So again, I want to emphasize in the strongest of terms how important this is to northern Nevada.

Mr. HORN. Understood.

Senator HECHT. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Metzenbaum.

Senator METZENBAUM. Mr. Horn, is that part of your family behind you?

Mr. HORN. Yes, it is, sir.

Senator METZENBAUM. Why don't you introduce them to us.

The CHAIRMAN. Yes; they were already introduced.

Senator METZENBAUM. Were they introduced?

The CHAIRMAN. Yes, they were.

Senator METZENBAUM. Well, I wasn't paying attention. I apologize to you.

I have been asked on behalf of a number of 34-year-old bald men to indicate their concern about the negative comments made by my distinguished colleague from Kentucky, and I want to be certain that their interests are protected. [Laughter.]

Mr. Horn, the most egregious example of land exchanges that has come to my attention is a matter on which I understand you played a major role, the St. Matthew Island exchange. Is it fair to say that you were involved in that matter?

Mr. HORN. Yes, I was, sir.

Senator METZENBAUM. Now, that proposed land exchange would have allowed designated wilderness lands on a remote national wildlife refuge island to be traded away to allow the construction of runways, warehouses, and other facilities to support offshore oil and gas exploration.

At the end of last year, as I understand it, an Alaska Federal district court struck down the exchange as a violation of the Act. The Department, I gather through you, has maintained that, though the values of the tracts to be exchanged were unequal, in other words in favor of the development interests, the exchange was legal because it was in the public interest.

The court, however, disagreed, saying that the Fish and Wildlife Service had clearly erred in their evaluation of the damage to the refuge that would occur, and consequently erred in their public interest determination. By its decision, the court affirmed that land exchanges are to provide better resource protection by getting inholdings out of conservation units, not to create new inholdings and new opportunities for development.

What concerns me is, despite the sharp repudiation of Interior Department policy, efforts are still under way to execute similar illegal land exchanges in such pristine areas as the Arctic National Wildlife Refuge. Now, the exchange provision of ANILCA was clearly intended to be used to get inholdings out of conservation system units, not to create new ones.

Why does the agency continue, in violation of the letter and spirit of the Act and of the *St. Matthew* court decision, to facilitate and push for these illegal land exchanges?

Mr. HORN. Sir, first back on St. Matthew, it was the decision of myself and the Fish and Wildlife Service that we thought—obviously the court disagreed—that we thought the exchange was a benefit. St. Matthew Island is one of over 2,500 islands that make up what is known as the Alaska Maritime Wildlife Refuge, and the trade would have temporarily provided to a consortium of three native corporations approximately 4,000 acres at one end of St. Matthew Island.

That is about 5 percent of the island and, as I say, that's one of 2,500 islands that make up the refuge. In return for this 4,000 acres that we would have gotten back when they were done with it, we were to obtain 14,000 acres of inholdings in the Yukon Delta Wildlife Refuge and the Kenai National Wildlife Refuge.

So that the result of the trade was immediately a net reduction of 10,000 acres of inholdings in the wildlife refuges in Alaska, and at the end of the period that the native corporations would have made use of St. Matthew's we would have gotten that 4,000 acres back. So the net result is at the end of the whole period we would have come out 14,000 acres ahead in terms of inholding reduction. So we thought that in that sense it was a good deal. It did achieve the goal of reducing inholdings.

Senator METZENBAUM. Well, you recognize merely the fact that there is 10,000 acres—you might have 10,000 acres in downtown Houston and you might have 10,000 acres somewhere up in the forest, in the wilderness of Alaska. So the mere counting of acreage doesn't count.

And the court addressed itself to the evaluation of the damage to the refuge that would occur, and therefore concluded that you have erred in your public interest determination.

Mr. HORN. What happened there is that the Fish and Wildlife Service, our wildlife management professionals, assured us—and the agreement was essentially negotiated by the regional director—was that he thought the impacts on St. Matthew Island to one or two bird colonies would have been rather minimal. Over time they would have not had any long-term adverse effects, so that made it acceptable on the St. Matthew side.

In terms of the land that we would have acquired, we would have acquired a perpetual nondevelopment easement on 8,000 acres of the finest black brant nesting habitat in Alaska—that's a threatened waterfowl species—along with about 1,000 acres of refuge wilderness inholdings on Nunivak Island, which is the home of one of our two musk ox herds in Alaska, along with other acreage on the Kenai National Wildlife Refugee, all of which was located along major salmon fishing rivers.

So that we thought we were getting a pretty good deal, but obviously the court disagreed.

Senator METZENBAUM. Mr. Horn, obviously I'm not asking you about yesteryear. I am asking you about today. My question addresses itself to why you persist in attempting to go forward with similar exchanges in such pristine areas as the Arctic National Wildlife Refuge and others, and don't follow the specific provisions of ANILCA.

Mr. HORN. We've done a series of exchanges. We've had a series of exchanges being negotiated in different parks and refuges in the State. The only one that's run into any difficulty is St. Matthew Island. We exchanged 90,000 acres of subsurface estate in the Arctic Wildlife Refuge to the Arctic Slope Regional Corporation in return for 110,000 acres in the Gates of the Arctic National Park, and have received really no criticism for that.

We traded land in the National Petroleum Reserve to Arctic Slope to acquire Kurupa Lake in the Gates of the Arctic. Of course, the Senate has approved the Red Dog exchange, which would give the Nana Corporation about 60,000 acres that's presently part of the Cape Krusenstern Monument in return for over 110,000 acres of land.

Senator METZENBAUM. Well, don't rub in the fact that we made that last approval. Fifteen United States Senators indicated their concern about that exchange and the fact that it had taken place without conformity with the regulations being issued.

What I am trying to get at is——

Senator MURKOWSKI. Would you yield for a question?

Senator METZENBAUM. Yes.

Senator MURKOWSKI. I apologize for having left the room. I had to see one of my constituents. But I am sure the Senator from Ohio knows that there were provisions in the legislation to allow the ex-

change process. It was by the design and wish of Congress that this occurred, because it was a functional way to address the realities that this couldn't be all binding at the time the legislation went in. So that this is a very normal function, and I don't think one that is worthy of specific criticism as a policy.

Senator METZENBAUM. I'm not trying to, except he is using it as an example of some of their efforts in the right direction. And what I am trying to address myself to is not that issue and not the St. Matthew Island issue. What I am concerned about is that, I don't know the sections that well, but as I understand it there are specific provisions of ANILCA, section 1303, and they were clearly intended to be used to get inholdings out of conservation system units, not to create new ones.

What I am asking is, why does the agency continue, in violation of the letter and spirit of the Act and of the *St. Matthew* court decision, to move forward without conformity with ANILCA?

Mr. HORN. We will not engage in any exchange that does not result in a net reduction of inholdings. That has been our policy since 1981. And the legislative history on 1302(h) expressly states—frankly, it's the House history that had a more restrictive exchange provision—that it acknowledged that we would be permitted to use lands within parks and refuges, to use that in exchange to other interests in Alaska, basically as long as we did it for the purposes of the act, which we have interpreted to mean essentially net reduction in inholdings.

So that we will not engage in any exchange that does not result in a net reduction of inholdings in these units.

Senator METZENBAUM. Does that mean that you will make every effort to conform with the ANILCA language in section 1303?

Mr. HORN. We think we have conformed with the language. Obviously, of all the exchanges that we have done—and we've done a number of them—St. Matthew Island is the only one that's been challenged and really criticized, and obviously the Federal court must have disagreed. You know, we thought we were right, the judge thought we were wrong. Obviously, he got the last word.

But our policy has been——

Senator METZENBAUM. Are you now applying the same standards that were struck down by the court, or are you accepting the position of the court as being the applicable law?

Mr. HORN. Well, the court essentially stated—you see, the court decision on St. Matthew did not really go to the legal principles. The court decision on St. Matthew went to the facts at hand. The court concluded that we were arbitrary and capricious based on the record that we had assembled and did not really make any rulings on the nature of the exchange authority.

The judge just concluded that in our public interest determination we just hadn't assessed the facts properly, and that the facts of that exchange did not support this exchange. The judge did not address any overriding principles of law.

The basic policy that we have employed since 1981 on all exchanges in Alaska has been that we have to meet two tests as a matter of policy: one, that if we take any land out of a conservation system unit, as is authorized by the statute, taking any land out

cannot impair the essential integrity of the conservation system unit.

The second test has been, we need a net benefit to the wildlife refuge or national parks system, and I have interpreted that essentially to mean we've got to get better quality lands or we have to have a net reduction of inholdings. That we think we've done in these other cases as well.

So that's the policy that's been in place. The court decision did not address itself to that policy. It said that on the facts of St. Matthew we were wrong.

Senator METZENBAUM. Let me change the subject a bit. During President Ford's administration, the Congress of the United States passed the National Urban Parks bill, which I was proud to author and steer through Congress, and we were successful in getting President Ford to sign it when he was skiing, I think out at Vail, at the very last moment.

But I find some considerable backsliding with respect to the whole matter of national urban parks. What in your view is the proper role of the National Park Service in operating and managing urban parks?

Mr. HORN. I think that the Congress has basically set out the mandate. One of the critical functions of the Park Service is the provision of recreational opportunities, as well as protection of natural resource values. It has gone so far as to establish important urban units—the Gateway National Recreation Area in New York Harbor, the Cuyahoga unit in Ohio, the Seashore unit north of San Francisco—and the Service is committed to—of course, the parks we have here, I think it's hard to argue that Rock Creek Park and the C&O Canal don't qualify as urban parks.

I think we've made a strong commitment to ensuring that they're part of the system. I know that Director Mott has made strong statements that he thinks that they're the equal of our other units and they're an important component of the system, and I think we intend to continue to manage them efficiently and effectively.

Senator METZENBAUM. But you can talk about a number in a hearing in about 5 seconds because there are that few national urban parks. Do you believe more national urban parks should be established?

Mr. HORN. That one I am not in a position to make a statement on. In many cases, most urban recreational opportunities are being provided by State and local governments. That has been an area that they have been particularly active in.

I think that if the circumstances and the facts warrant it, expansion to include other urban parks would be appropriate. But I think we'd have to make that decision on a case-by-case basis.

Senator METZENBAUM. Wasn't that policy decision enunciated in the National Urban Park legislation, that Congress recognized that there should be parks located in urban areas, national parks located in urban areas? But the fact is there has been no implementation of that congressional enactment, while we have seen fit to expand the National Park System, which I support, and to provide literally hundreds of millions of dollars for that purpose.

You describe yourself, and appropriately so, as a strong conservationist, as one who is concerned about wildlife and recreation opportunities. And my question is, can we look to you for some direction and some further implementation of a system of urban national parks in this country, or will we see it as the forgotten issue of this administration?

Mr. HORN. I think that the issue of Park System expansion has been discussed. I know that the Director has talked about it. I am unaware of any pending proposals that are being generated internally for new urban parks, but I think it is something we are prepared to look at.

I know that we have talked about opportunities for System expansion that are appropriate. I think urban parks would be a candidate pursuant to the congressional directive. But I think that in terms of any specific proposals, that would have to wait until we saw it and we could make the specific determination.

Senator METZENBAUM. Can we look to your leadership for adequate funding? And "adequate funding," of course, is subject to any number of definitions. But the fact is that the whole Urban Park Program has been cut back, back, and back and back, and nobody has been a more able spokesperson on the opposite side of this than has Congressman Seiberling over in the House.

My question to you is: Can we count upon you for some leadership on the matter of providing, not tremendous funding, but at least comparable funding as compared to other national parks, taking into account that others are much larger in size than some of the urban parks we are talking about?

Mr. HORN. I think we have an obligation to ensure and see to it that all the units of the Park System are adequately and properly managed and their resources protected. I think that means that the appropriate amounts of fiscal resources have to be allocated to the Gateways and Cuyahogas of the world, in the same way that they are allocated to the Grant Canyons and Yosemites.

Senator METZENBAUM. Thank you.

I have no further questions, Mr. Chairman.

The CHAIRMAN. Mr. Horn, I have a couple of other questions, both dealing with the question that Senator Johnston got into very slightly. and that is what we're going to do in terms of the management of the special units of public lands and special features on public lands, and the growing demands on the part of OMB to generate more revenues.

I believe I state current policy correctly when I say that, with respect to fish and wildlife, the Federal Government manages the habitat on public lands, and unless there is a direct Federal preemption the State governments manage the fish and wildlife resources, the resident nonmigratory species. Is that not correct?

Mr. HORN. That is absolutely correct.

The CHAIRMAN. The preemptions have extended to migratory wildfowl, have extended to national parks, units of the National Park System, with the possible exception of recreation areas that may be administered by the Park System, national wildlife refugees.

But in other instances, the public land manager, whether it is public lands or private lands management interest of the Federal

Government in instances such as ownership of the forest, national forest lands, national public interest lands administered by the BLM, wild and scenic rivers, wilderness designations, the basic management of the habitat remains in the Federal Government, management of the resident fish and wildlife species remains in the State government.

I assume from your answer and your background that you have no problem with that distinction in your policy?

Mr. HORN. None whatsoever. As a matter of fact, I have tried to work in the past years to ensure that the State role in the management of the taking of the fish and wildlife is protected. It's an important prerogative of the States and something that they have done very, very well and effectively over the years.

I know in Alaska we have executed memoranda of agreement with the Alaska Department of Fish and Game so that we have cooperative ventures now that govern the fish and wildlife taking regulations on all the park, preserve, and refuge units in Alaska. The Department of the Interior through either the Fish and Wildlife Service or the Park Service does not independently set seasons and bag limits. We cooperate and let the State establish them pursuant to an MOU.

So it's an issue I have been very sensitive to, and it's an arrangement that has worked very well for the history of this Republic and it's one that I have no intention to change. If it's not broke, let's not fix it.

The CHAIRMAN. I should mention, too, the Federal preemption in instances such as the Endangered Species Act. That doesn't affect just public lands. It affects private lands as well. They deal with the species and Federal preemption.

A matter of great concern to many of us is the question of the Endangered Species Act, which is not within the jurisdiction of this committee, although the public lands that may be affected are. I cannot help but make passing reference at least to the problem that I see emerging around Yellowstone National Park as we deal with the question of, not an endangered species, but the grizzly bear, which is on the threatened list, in which we now see discussions of expanding the management unit from not just the National Park, but to what is now known as the Greater Yellowstone Ecosystem, which instead of being 2 million acres is 8 million acres.

Much of that land in that 8 million acres, most of that land is public lands, but not exclusively public land, and there are many human and commercial interests in those public lands that may be in conflict with the management scheme that would say in effect that where the grizzly bear wants to go he's got the right of way.

I guess I don't ask everyone in the United States to understand that issue, but I would hope that some do, and particularly those who have the responsibility for administering policy. It has led to such things, not just of a sheepherder who can no longer make a livelihood with his sheep in the unit where grizzly bears decide that they would like to go; it led to such things as a man being prosecuted for defending his cabin and his wife against a grizzly bear's incursion when he shot the bear.

It has led to such things in the past as the National Park Service lying to me and to this committee—there's no other way of saying

it—with respect to their transportation of problem bears from Yellowstone to other areas where they wouldn't bother visitors to Yellowstone, they would just bother other people, other places.

And I mention it only because I think I'd be derelict in my duty as a representative of the people in my area if I didn't mention that as a problem, and I know that you're aware of it and I know from our discussions you will look at it.

I would hasten to say, you've made no promises that you're going to solve all the problems. I think that that's a continuing problem.

With respect to the fees charged for entrance to or the use of public land units, I have spoken on that often from this podium as well as others, and I assume that you are familiar with the statements that I have made with respect to the charge of special user fees or entrance fees.

Mr. HORN. Yes, sir, I am.

The CHAIRMAN. Well, I will not belabor that subject today, and I know we will have further opportunity, perhaps, to discuss that. But I am very much concerned that we don't get into the generalized notion that somehow people who enter on the public lands generally ought to be charged for the privilege of entering on the public lands or the enjoyment of the public lands in a very general sense.

I recognize that in States where there are very few public lands, where the units are few and far between, they're small, well-defined, compact, easily definable units, where the public demand for those uses is very, very high and far exceeds the capacity of those units to provide the kind of experience that we take for granted in the West, the public may tolerate and perhaps even expect a different kind of management than they would expect or tolerate in the areas of the West where the Federal Government ownership is one-half or more of the total land mass.

My own State is two-thirds owned by the Federal Government. There is almost no human activity that in the course of a week or a month doesn't in some way involve itself with some aspect of the use of the resources that are on those public lands, whether it be the logger that goes there for a livelihood, the miner that explores there for the exploration of minerals, a fisherman who goes there to fish, or the hunter in the fall who goes after big game in some of our wilderness areas or other public land areas, to the casual question that a Senator from Idaho may have landing at the airport nearest my home and driving the 100 miles to get to my home and necessarily traversing miles of public land to get there.

There isn't any other way to get there. There isn't any road that would get there without crossing public lands. That's the way my State is. And I know your experience with Alaska would make it easy for you to understand that.

But if we then get down to the point where I've got to go through a toll booth every time I cross the geographical boundary and pay a fee, I suspect I will join with some others in armed rebellion. I don't say that totally casually, because I think people feel that passionately about their right to use what is, after all, owned by all of us, the public lands, without a special permit or a special fee for its use.

I know of no other questions at this time, but I do wish to announce that members of the committee may submit questions in writing for response to the record. And Senator Wallop in particular, who had to testify before a House committee this morning and was unable to be here because of that conflict in his schedule, has some questions to submit for your response in writing.

I would also request of all members of the committee that any questions that they may submit in writing should be submitted by the close of business today, and would then ask that you make responses as quickly as is possible so that we can move toward the business session of the committee next week.

I might also announce and place in the record at this time letters of support from the American Fisheries Society, the American Recreation Coalition, and the Lummi Indian Business Council. Those letters will be made a part of the record at this point.

[The letters referred to follow:]

OFFICIAL
American Fisheries Society
5410 Grosvenor Lane, Suite 110, Bethesda, MD 20814-2199
(301) 897-8616

WILLIAM S. PLATTS
President-Elect

CARL R. SULLIVAN
Executive Director

ROBERT L. WENDAY
Managing Editor

July 12, 1985

The Honorable James McClure
Chairman
Senate Energy and Natural Resources Committee
United States Senate
Washington, D.C. 20510

Dear Senator McClure:

The American Fisheries Society endorses the nominaton of William P. Horn as Assistant Secretary of Interior for Fish, Wildlife and Parks. We ask that the Senate confirm his nomination.

Our Society is an organization of roughly 7,000 professional fisheries scientists. Our primary concern is for the protection, enhancement, and optimal use of the nation's fisheries resources. The policies and activities of the Department of the Interior have great impact on fisheries resources and thus we are keenly interested in the record, the abilities, and the views of the Department's leaders.

We believe that Bill Horn has an exceptional commitment to protect and conserve the nation's fisheries resources. He understands the vital role of habitat protection and seems genuinely sensitive to the strong relationship between environmental quality and the quality of life. As a hunter and fisherman he knows that conservation is indeed wise use. We find him accessible, an attentive listener, and thoughtfully responsive to new ideas. If confirmed, we believe he will resurrect the strong fisheries thrust which has been absent from the Fish and Wildife Service for a long time.

Respectfully,

Carl R. Sullivan
Executive Director

CRS/ymw

cc: Gil Radonski, Sport Fishing Institute
Ray Scott, Bass Anglers Sportsman Society
Jack Berryman, International Assoc. of Fish & Wildlife Agencies
Bob Herbst, Trout Unlimited
Jack Lorenz, Izaak Walton League of America

Editorial Offices
Managing Editor, *Transactions*, PO Box 1150, Columbia, MD 21044 (301) 596-3458
North American Journal of Fisheries Management, 2677 Esch Ave., Ann Arbor, MI 48103 (313) 971-6329
Fisheries, *Progressive Fish-Culturist*, 5410 Grosvenor Lane, Suite 110, Bethesda, MD 20814-2199 (301) 897-8616

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American Recreation Coalition

July 18, 1985

The Honorable James McClure, Chairman
Committee on Energy and Natural Resources
United States Senate
Washington, D. C. 20510

Dear Senator McClure:

We are writing to express our support for the nomination of Bill Horn to serve as the Assistant Secretary of the Interior for Fish, Wildlife and Parks. We believe that Bill Horn combines the energies, the creativity and the commitment to wise natural resource management necessary to serve with distinction in this important post.

We are especially pleased by the openness and ready availability Mr. Horn has demonstrated in his past roles at Interior. He has expressed to us his commitment to continuing these practices and to working toward more harmonious relations among all those who love our outdoors.

We ask that our letter of endorsement be made a part of the hearing record on this nomination and that his nomination be acted upon by your committee swiftly and favorably.

Sincerely,

Derrick A. Crandall
President

DAC/epw

Suite 700 • 1015 Eye Street, NW • Washington, D.C. 20005 • (202) 49[illegible]

LUMMI INDIAN BUSINESS COUNCIL
2616 KWINA RD. • BELLINGHAM, WASHINGTON 98226-9298 • (206) 734-8180
DEPARTMENT _____ EXT _____

July 17, 1985

The Honorable James A. McClure, Chairman
Energy and Natural Resources Committee
United States Senate
358 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator McClure:

The Lummi Indian Tribe, located on the Pacific Northwest Coast of Washington State, strongly supports the confirmation of William P. Horn for the position of Assistant Secretary - Fish, Wildlife, and Parks in the U.S. Department of Interior. Lummi Tribal representatives experienced a very positive working relationship with Deputy Under-secretary Horn during the complex and politically sensitive negotiations relative to U.S.-Canada Salmon Interception Treat successfully concluded this Spring.

We understand Assistant Secretary Designate Horn to be a very capable, honest administrator who exhibits a high degree of integrity in fulfilling his professional duties. The arenas of responsibility -- Fish, Wildlife, and Parks -- requires decisive leadership sensitive to protecting and sustaining living resources for future generations as balanced against the demands of modern society. Horn is an excellent choice for these difficult responsibilities.

We would appreciate this letter endorsement be included in the record of pending confirmation hearings for William P. Horn.

Sincerely,

Fred F. Lane

Fred F. Lane
Inter-Governmental Officer

OFFICIAL COMMITTEE FILE

The CHAIRMAN. I know of no further questions of you this morning. Thank you, Mr. Horn.

Mr. HORN. Thank you, Mr. Chairman.

The CHAIRMAN. As I indicated earlier, I did not think it would be likely that we would get to the confirmation hearing for Mr. Trabandt to be a member of the Federal Energy Regulatory Commission, and it is now obvious that that was correct.

I have been consulting with members of the committee as to when it might be most convenient for members to continue the hearing for that purpose, and I had earlier suggested Friday. I find that that time is inconvenient for a number of the members of the committee, but they would be available on Monday morning.

It would be my intention, therefore, at the appropriate time to recess this committee meeting until next Monday morning. I think in fairness, too, I should indicate that if there were a number of questions submitted for writing that required complex investigation or answer for the record, that would unduly delay our opportunity to complete action on that nomination next week if the committee decides to go forward with that nomination.

And I have received assurances from the members to whom I have talked that it is not their intention to delay the committee's consideration. They don't anticipate having voluminous written questions for submission for response to the record in Mr. Trabandt's nomination, and therefore we would expect that if the committee decides to move forward with that nomination there would be no reason why we could not do so at one of the regularly scheduled business meetings of the committee next week.

I will now call on the other witnesses: Janie Leask, president of the Alaskan Federation of Natives; Susan Alexander, regional director of the Alaska Wilderness Society; Wes Hayden, legislative counsel for International Association of Fish and Wildlife Agencies. Will those three witnesses and those accompanying them please come forward at this time.

Ms. Leask.

STATEMENT OF JANIE LEASK, PRESIDENT, ALASKA FEDERATION OF NATIVES, ACCOMPANIED BY DON MITCHELL, ESQ., COUNSEL

Ms. LEASK. Thank you, Mr. Chairman. My name is Janie Leask and I am president of the Alaska Federation of Natives. The AFN is a statewide Native organization which represents the 13 regional corporations established pursuant to the Alaskan Native Claims Settlement Act and 12 of the Native nonprofit settlement associations which provide health and social services within their respective regions.

On behalf of the board of directors of the Alaska Federation of Natives, I would like to express our appreciation for the opportunity to testify this morning in support of the nomination of Bill Horn as Assistant Secretary of the Interior for Fish, Wildlife, and Parks.

For the past 7 years, Mr. Horn has worked closely with AFN and other members of our organization on issues of considerable importance, both to Alaska Natives and to the State of Alaska as a whole. And although AFN and its member organizations have not at all times agreed with the policies which Mr. Horn has been in-

strumental in developing or in implementing, almost without exception every member of AFN has been consistently impressed with Mr. Horn's intelligence, commitment to public service, and dedication to crafting of Department of Interior policies in a fair and open manner which has afforded AFN an opportunity to participate in decisions which have had a profound effect on the well-being of Alaska Native people.

We look forward to continuing to work with Mr. Horn in his new position in the same spirit of mutual cooperation and respect.

Mr. Chairman, Senator Murkowski this morning has covered a number of our issues of importance to Alaska Natives, including the subsistence resource commissions and also the condemnation of Native allotments. I won't belabor that. That is also outlined in the testimony that I have prepared for you.

The CHAIRMAN. Of course, your entire statement will be placed in the record in full.

Ms. LEASK. Thank you.

Another issue that I would just like to briefly comment on is the National Park Service is on the brink of finalizing its management plans for each park unit, and we have done a cursory review of the draft plans and in our review we feel that the subsistence hunting issue is not adequately addressed in these park plans.

I would strongly recommend that Mr. Horn in his new position undertake an immediate review of the National Park Service implementation of section 808 of ANILCA, which establishes not only the subsistence resource commissions, but also that he take appropriate action to ensure that the final management plans now being developed by the National Park Service state unequivocally that subsistence hunting and the regulation and administration of activities which may conflict with subsistence hunting will be regulated pursuant to subsistence hunting programs developed by the commissions.

Again, I would like to reaffirm our support for the confirmation of Mr. Horn as Assistant Secretary of Interior for Fish, Wildlife, and Parks. We look forward to working with him in the months and years ahead and to ensure that the interests of both Alaska Native people and the agencies for whose administration he will be responsible are adequately served in a manner consistent with the national interest.

And I appreciate again the opportunity to provide this testimony to you this morning.

[The prepared statement of Ms. Leask follows:]

TESTIMONY OF

JANIE LEASK

PRESIDENT OF THE ALASKA FEDERATION OF NATIVES

ON THE

CONFIRMATION OF WILLIAM P. HORN

AS

ASSISTANT SECRETARY OF THE INTERIOR

JULY 24, 1985

Mr. Chairman, members of the committee, my name is Janie Leask. I am the president of the Alaska Federation of Natives. The Alaska Federation of Natives is the statewide Native organization which represents the thirteen regional corporations established pursuant to the Alaska Native Claims Settlement Act and the twelve regional nonprofit associations which provide health, social and other services to Alaska Natives living within each region. All of the 60,000 Alaska Natives who reside in Alaska are shareholders or members or are otherwise represented by the corporations and associations which are members of AFN. On behalf of the Board of Directors of the Alaska Federation of Natives I would like to express our appreciation for the opportunity to testify this morning in support of the nomination of William P. Horn as Assistant Secretary of the Interior for Fish, Wildlife and Parks.

For the past seven years Mr. Horn has worked closely with AFN and its member organizations on issues of considerable importance to both the Alaska Native people and to the State of Alaska as a whole. Although AFN and its member corporations and associations have not at all times agreed with the policies which Mr. Horn has been instrumental in developing or implementing, almost without exception, every member of AFN has been consistently impressed with Mr. Horn's intelligence, commitment to public

service, and dedication to crafting Department of the Interior policies in a fair and open manner which has afforded AFN an opportunity to participate in decisions which have had a profound affect on the well-being of the Alaska Native people.

AFN looks forward to continuing to work with Mr. Horn in his new position with the same spirit of mutual cooperation and respect.

Mr. Chairman, although Mr. Horn's new responsibilities will encompass a broad range of fish and wildlife management issues, his appointment as Assistant Secretary for Fish, Wildlife and Parks is a particularly timely event in the history of the implementation of the Alaska National Interest Lands Conservation Act. From 1977 through 1980 Mr. Horn was a key staff participant during the struggle which culminated in the enactment of ANILCA. Consequently, he will bring to his new position much needed experience and institutional memory about the intent of Congress embodied in the provisions of ANILCA his secretariat has been charged with responsibility to implement.

In that regard, there are two issues to which AFN would like to bring to the committee's attention and to which we hope Mr. Horn will focus his attention subsequent to his confirmation.

The first is the National Park Service position that it is legally empowered to condemn Native allotments located inside Alaska park boundaries. Pursuant to section 1302(b) of ANILCA land conveyed to a village or regional corporation or to an individual Native cannot be condemned by the National Park Service without the consent of the owner. This provision was included in ANILCA at AFN's request to ensure that the sudden transformation of surrounding land into a national park or preserve would not compromise the rights of Native people living within the new conservation system unit. AFN did not request that Native allotments be included within the purview of section 1302 for the simple reason that since allotments are trust property, the idea that the Secretary of the Interior has the legal authority to violate the terms of his trust to advance the interests of a federal agency at the expense of a Native beneficiary is simply unthinkable. Yet that is precisely what the Alaska regional director of the National Park Service informed me last week that he believes the Secretary is empowered to do - and which he informed me the National Park Service intended to do if, in the judgment of the National Park Service, such action was necessary to advance its interests.

Mr. Chairman, such a policy is directly contrary to the spirit of ANILCA. And it is a policy which AFN would strongly request Mr. Horn to summarily reverse.

The second issue to which AFN would like to draw both the committee's and Mr. Horn's attention is the National Park Service's failure to adequately support the organization and the work of the Subsistence Resources Commission in each park in which the Congress has instructed the National Park Service to authorize and protect subbsistence hunting by local residents. This problem has been compounded by the National Park Service's failure to adequately address the continuation and protection of subsistence hunting in the management plans which it is required to submit to the Congress pursuant to section 1301 of ANILCA.

The Subsistence Resource Commissions were established by the Congress to develop a subsistence hunting program for each park within eighteen months after the enactment of ANILCA. Such plans have not been developed because well after eighteen months after the enactment of ANILCA the National Park Service had not yet even organized the commissions - much less assisted them in developing subsistence hunting programs.

The Subsistence Resource Commissions have only recently been organized and without exception the members of the commissions with whom my office has been in contact have expressed concern about the lack of real commitment on the part of the National Park Service to make the work of the commissions a success.

In the meantime, Mr. Chairman, the National Park Service is on the brink of finalizing its management plans for each park unit. Even a cursory review of the draft plans will indicate that the the subsistence hunting issue is not adequately addressed. Consequently, Mr. Chairman, on behalf of AFN I would respectfully, but strongly, request that Mr. Horn undertake an immediate review the National Park Service's implementation of section 808 of ANILCA which established the Subsistence Resource Commissions and take appropriate action to ensure that the final management plans now being developed by the National Park Service state unequivocally that subsistence hunting - and the regulation and administration of activities which may conflict with subsistence hunting - will be regulated pursuant to the subsistence hunting programs developed by the commissions to which the Congress has delegated this important responsibility.

In closing, Mr. Chairman, I would like to reaffirm the Alaska Federation of Natives' support for the confirmation

of William P. Horn as Assistant Secretary of the Interior for Fish, Wildlife and Parks. We look forward during the months and years ahead to continuing to work closely with Mr. Horn to ensure that the interests of both the Alaska Native people and the agencies for whose administration he will be responsible are adequately served in a manner consistent with the national interest.

Thank you.

The CHAIRMAN. Thank you very much.
Next we will hear from Ms. Alexander.

STATEMENT OF SUSAN ALEXANDER, ALASKA REGIONAL DIRECTOR, THE WILDERNESS SOCIETY

Ms. ALEXANDER. Mr. Chairman, my name is Susan Alexander. I am Alaska regional director for the Wilderness Society, which is celebrating its 50th anniversary this year. We were founded in 1935 by Bob Marshall, so our concern and dedication to Alaska's lands goes to our very founding.

I have come here today from Alaska to present the views of the Wilderness Society on the nomination of Mr. Horn because, as several of your colleagues have noted, he will be playing a critical role in the management of our Nation's parks and refuges.

Unlike many nominees for executive branch positions, Mr. Horn has been in the agency for which he has been nominated and therefore has a record that we can examine to evaluate his policy orientation. Unfortunately, that record is the record that we've put together as the Watt-Clark record for Alaska. Mr. Horn has been with the Department since Secretary Watt's tenure, during his tenure, and therefore we feel it appropriate to look at that record and would ask that this publication be placed in the record.

The CHAIRMAN. We will receive the report and place it in the committee file.

Ms. ALEXANDER. That will be terrific. Thank you.

In examining that report, we have found that the policy of the administration and presumably of Mr. Horn as chief policy advisor on Alaska is skewed from the conservation mandates of the Alaska Lands Act and the proper conservation goals of the Department of Interior, and therefore we feel we must oppose the nomination of Mr. Horn.

In light of the discussion that took place between Senator Metzenbaum and Mr. Horn on land exchanges, I would like to focus my testimony on land exchanges, which have been of major concern to the society. They present a serious threat to Alaska's conservation system units and at the same time present an excellent tool to get inholdings out, which was the intention of Congress in enacting section 1302(h). However, this administration does continue to use this provision to create new opportunities for inholdings in conservation units where they would not otherwise be allowed.

St. Matthew is the chief example, but there are others. Cape Krusenstern is one which I think the committee is very familiar with. I also have to disagree with Mr. Horn. He said that St. Matthew presents the only case where the conservation community has objected, and that is simply not so.

It is the only one where there has been a lawsuit, but the reason that the Cape Krusenstern bill is in Congress is because virtually the entire conservation community, including those conservation groups that support the legislation, objected to an administrative land exchange for Cape Krusenstern, and in large part that is what drove the parties to Congress. That was at the suggestion of many of the conservation groups.

So that is one case where there is a problem. Another that Mr. Horn mentioned is the Kaktovic Chandler Lake exchange with the Arctic Slope Regional Corporation. Again there was no lawsuit that was filed on that, but there was considerable concern at the time before that land exchange and much legal research done on it.

And I was not working on Alaska issues at the time, so I was not involved, but the reasons for there not being a lawsuit has nothing to do with the concerns and in fact belief that that was probably an illegal land exchange.

There is another one which the Regional Director of the Fish and Wildlife Service recently informed me of, in the Alaska Peninsula Wildlife Refuge at Ugashik Lake, where the Service is pursuing a land exchange to allow a lodge owner to take title to the land that his lodge is on inside the wildlife refuge.

And when I asked him if he had informed Congress of this land exchange pursuant to the Interior Appropriations Conference Committee report language of last year, he said he had not. But again, this is another one. There are many examples of what we would consider illegal land exchanges.

My testimony does go through many other concerns that we have with the record, and I would ask that it be included in the record. One of the problems in examining the record is that Mr. Horn has been in the role of policy advisor, rather than as line officer, and it is therefore often difficult to find evidence of his role, which is why I did want to focus on land exchanges, because Mr. Horn did inform us that he was very involved or is very involved in them.

The Wilderness Society would urge the committee to submit written questions to Mr. Horn that would determine whether he has protested or opposed any of the policies that have been promulgated by the administration over the last 4½ years, to determine exactly what his orientation is.

But in light of the record on Alaska, we feel that it bodes ill for the rest of the Nation's parks and refuges, and therefore the Wilderness Society would urge the committee to oppose the nomination of Mr. Horn.

Thank you.

[The prepared statement of Ms. Alexander follows:]

THE WILDERNESS SOCIETY

STATEMENT OF SUSAN ALEXANDER, ALASKA REGIONAL DIRECTOR, THE WILDERNESS SOCIETY, REGARDING THE PROPOSED CONFIRMATION OF WILLIAM P. HORN, FOR ASSISTANT SECRETARY, FISH AND WILDLIFE AND PARKS, U. S. DEPARTMENT OF THE INTERIOR,BEFORE THE SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, JULY 24, 1985.

Mr. Chairman, I am Susan Alexander, Alaska Regional Director for The Wilderness Society, an organization with over 140,000 members nationwide. This year the Society is celebrating 50 years of commitment to the preservation of wilderness and the wise management of all federal lands.

I have come here from Alaska to present the views of The Wilderness Society on the nomination of Mr. William P. Horn to be Assistant Secretary, Fish and Wildlife and Parks. Because Mr. Horn has been employed during the past four years by the Department, his record and policy orientation are known to us. That record, beginning with the administration of former Secretary James Watt, fails to demonstrate a commitment either to the proper conservation goals of the Department of Interior or to the often declared "balance" Mr. Horn claims to represent. That record is now part of the conservation record of the Reagan Administration.

As a Deputy Under Secretary, Mr. Horn primarily has been responsible for Alaska issues in the Department, specifically the implementation of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA). In that regard, Mr. Horn has been a

1400 EYE STREET, N.W. WASHINGTON, D.C. 20005
(202) 842-3400

consistent presence and advocate for the development-over-all policy orientation that has come to characterize the administrations of Mssrs. Watt and Clark and now is beginning to become more visible in the administration of Mr. Hodel. That apparently unchanging pattern is notable in its attempts to undermine the conservation intent and even, in some instance, the express mandates of ANILCA. The Wilderness Society published an account of these actions in The Watt/Clark Record: Alaska published last year. With, unfortunately, few exceptions that report remains current and I request that it be included in the Committee's Hearing record.

I would like to provide a brief review of some of the more troubling actions by the Department in which Mr. Horn has been involved. These examples evidence the continuing one-sided approach to the implementation of ANILCA taken by this Administration. As a summary of the direction taken by the Administration in overall implementation of that Act, the following statement by former Senator Paul Tsongas, a major author of that legislation, best describes the situation:

> It appears that the Secretary's [Watt's] every move is designed to overturn the conservation-development scales so carefully balanced by the Congress [in ANILCA]. Under the guise of implementing the law, the Secretary is, in fact, undoing the law. Through calculated use of the budget, selective enforcement of some provisions of the act but no enforcement of others, and by suspect interpretations of statutory provisions - the Alaska National Interest Lands Conservation Act is being transformed into the Alaska National Interest Lands Development Act. [Congressional Record, June 9, 1982, p. S6471]

POLICY DIRECTION

On March 12, 1981, Secretary Watt issued eight policy directives to modify past implementation of ANILCA. Mr. Horn's involvement in the drafting of these directives, given Mr. Watt's lack of experience on Alaska matters early in his Administration, was substantial. One of those directives designated the U.S. Geological Survey, rather than the U.S. Fish and Wildlife Service, as the lead agency for the coastal plain special study area in the Arctic National Wildlife Refuge (the so-called 1002 study area). Simultaneously, the directive shortened the time available for the initial baseline study and report from the allowed 18 months to 12 months. The directive specified that "Work is to begin immediately on drafting the exploration regulations [that is, before any baseline information was available]."

That directive would have placed primary responsibility for the overall study, including the specialized wildlife and habitat studies with an agency ill-prepared to conduct the research or to make decisions based upon such studies. The legislative history of ANILCA shows that Congress intended the FWS to retain full responsibility for protecting the fish and wildlife, habitat and other special values of that refuge, and all other Alaska refuges. An exchange between Senator Gaylord Nelson and Senator Henry Jackson on this topic occurred during the floor discussions intended to form the basic legislative history for the Act:

> MR. NELSON: [Is] it your intent that the Fish and Wildlife Service have the lead within the Department of the Interior in designing the criteria and guidelines to protect caribou, other wildlife and their habitat [?]. Of course, other

> agencies would also be involved and consulted, but it seems to me appropriate that the FWS play the key role in this program. Does the Senator agree?
>
> MR. JACKSON: Yes, I believe it is appropriate for the FWS to have the lead responsibility for developing the wildlife protection stipulations in coordination with the appropriate offices of the Interior Department.

On November 2, 1981, a U.S. District Court ruled that Watt had overstepped his authority in issuing the directive. The Court stated that the directive was "in excess of the statutory authority under the Alaska National Interest Lands Conservation Act of 1980, and the National Wildlife Refuge System Administration Act." The decision went on to declare that "adequate time to carry out the law's requirements" shall be provided. The court also set aside the assumptions and environmental statement outline that USGS had prepared.

However, the reversal of the directive did not ensure careful exploration activity. Poor enforcement and the suspect waiver of environmental stipulations, such as the snow depth required to properly protect the fragile tundra, have resulted in unnecessary and unsightly damage. The long range damage to permafrost, soils and vegetation has yet to be fully assessed.

The Watt/Clark Record that I have submitted documents that series of actions and others pertaining to the National Wildlife Refuges in Alaska. The clear conclusion from a reading of that record is that Mr. Horn has participated in a one-sided interpretation and implementation of the law.

LAND EXCHANGES

Despite a recent court decision, the Interior Department in which Mr. Horn has served continues to use ANILCA's land exchange provision (section 1302) in violation of Congressional intent--and even in violation of the law. Through this "innovative use" of the exchange provisions, vital park and refuge acreage could be lost. The result will be development that, but for the exchange, would be prohibited by the Act as inappropriate and deleterious to conservation system units because it threatens their integrity.

The most egregious example is an exchange that we understand Mr. Horn played a major role in arranging: the St. Matthew Island exchange. This proposed land exchange would have allowed designated wilderness lands on a remote national wildlife refuge island to be traded away to allow the construction of runways, warehouses and other facilities to support offshore oil and gas exploration. At the end of last year, an Alaska District Court struck down the exchange as a violation of law. The Department had maintained that though the values of the tracts to be exchanged were unequal (in favor of the development interests), the exchange was legal because it was "in the public interest." The Court, however, disagreed, saying that the Fish and Wildlife Service had clearly erred in their evaluation of the damage to the refuge that would occur and, consequently erred in their public interest determination.

By its decision, the Court affirmed that land exchanges are to provide better resource protection by getting inholdings out of conservation units, not to create new inholdings and new

opportunities for development. Despite this sharp repudiation of Interior Department policy, efforts are still underway to execute similar illegal land exchanges in such pristine areas as the Arctic National Wildlife Refuge.

WILDERNESS POLICY

During Mr. Horn's tenure, the Department of Interior has tried at least twice to minimize the amount of land in Alaska to be added to the National Wilderness Preservation System. One such effort is documented in a formal policy directive from the Director of the Fish and Wildlife Service to the Alaska Regional Director. Its purpose is to limit the lands to be recommended for wilderness designation to those that were "inadvertently overlooked by Congress" in ANILCA and to lands needed to correct boundaries. This is inconsistent with the Alaska Lands Act which calls for a thorough and comprehensive wilderness review of all park and refuge lands with the clear intent that considerably more acreage should be designated as wilderness. In fact, the main proponents for the further wilderness study provisions in the Act argued that the studies were needed because adequate review had not taken place.

On March 12, 1981, then Secretary James Watt issued a policy directive prohibiting the Bureau of Land Management (BLM) from undertaking any "further wilderness inventory, review, study, or consideration...in Alaska, except in those areas where study is mandated in legislation." Unlike parks and refuges, the Alaska Lands Act did not mandate wilderness study for BLM lands, but, rather, left it to the discretion of the Secretary. The Watt directive has not been repealed. Hence even the areas Congress

found worthy of special protection--the White Mountains National Recreation and Steese National Conservation Areas--have not been examined for their wilderness suitability. The planning process is the appropriate time for such a review, but the management plans have been finalized without consideration of the important management tool wilderness represents.

The administration's record on the implementation of the Alaska Lands Act is a dismal one that has been referred to as "misimplementation." Because Mr. Horn was officially in the role of policy advisor, rather than line officer, it is difficult to find evidence of his participation in many of the decisions cited. However as the individual considered responsible for and most knowledgeable about Alaska, it is even more difficult to imagine that he did not play a critical role in the formulation of what we consider misdirected policies. We ask that the Committee carefully question Mr. Horn on the important Alaska policies established during his tenure to determine his role in formulating those policies. We would also suggest that the Committee determine whether or not Mr. Horn opposed or disagreed with any of those policy decisions. At this point, only Congress can ensure that the Alaska National Interest Lands Conservation Act is set back on its proper course. The Alaska record bodes ill for the rest of the nation's parks and refuges that will now come under Mr. Horn's aegis. Therefore The Wilderness Society urges the Committee to oppose Mr. Horn's nomination.

The CHAIRMAN. Thank you.
Mr. Hayden.

STATEMENT OF WES HAYDEN, LEGISLATIVE COUNSEL, INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES

Mr. HAYDEN. Thank you, Mr. Chairman. I appreciate the opportunity of appearing on behalf of the International Association of Fish and Wildlife Agencies to share with you our assessment of the nomination of William Horn to be Assistant Secretary of Interior for Fish and Wildlife and Parks.

As an organization committed to the cause of balanced and sound resource management and conservation, we think it's very important to have someone in this job who has a philosophy that's compatible with that mission, as well as one possessing administrative skills, leadership traits, and experience needed to implement it effectively.

We have for that reason given special care and attention to the appointment which you will be considering, and we've concluded that from our standpoint Bill Horn meets those criteria. In the first place, he brings to the position an impressive record of credentials that combines Hill experience, that combines special expertise in highly sensitive areas of management in Alaska and in the Great Lakes fisheries area, where he serves as Chairman of the Great Lakes Fisheries Commission.

His record as we read it has been consistent, his record of success in those areas of activity, and that alone in our judgment would commend his favorable consideration. But our assessment goes beyond simply the matter of the record itself. It also includes a judgment on the individual himself.

It's based on our firsthand observations during a recent briefing session in which he participated with representatives of the conservation community, including the International Association.

He demonstrated in our judgment clearly a knowledge, understanding, and sensitivity to the broad range of issues which are of great interest and significance to the fish and game agencies which make up the Association's membership and which are crucial in our judgment to the success of the resource conservation and management effort.

I mention only a few of these issues with which we are vitally concerned, such things as the migratory bird treaty, the wetlands preservation, the reauthorization of the Endangered Species Act, a resolution of the lead-steel shot controversy which is involved in wildlife, waterfowl hunting, reauthorization of the Conservation Fish and Wildlife Coordination Act, the Non-Game Act, the Sykes Act, and a number of others.

The list goes on. It's a matter that we have a vital interest in. We believe that he shares our concern over these things and has a knowledge and understanding of those issues, which are important to us.

Based on those observations and other evidences of his objectivity and his determination to develop and maintain close ties between States and Federal agencies, particularly through the Fish and

Wildlife Service, this Association and its members are prepared to support his nomination and his confirmation.

I would point out one thing, that the job for which he's now recommended has been occupied on an acting basis for more than 6 months. In our judgment it's important to have a permanent appointee in the position, particularly since there are so many issues with which he will be dealing on matters that are pending before the agency and before Congress which are vital to the success of the conservation effort.

For that reason, we not only support his nomination; we hope that it will be possible to act on it without delay, hopefully before the August recess, because if it's not then we have another month of uncertainty, another month of delay before there is an embarking on a permanent direction for the rest of this year and the rest of this session of Congress. We hope that that action can come.

We look forward to working with Mr. Horn and with this committee in the exercise of his responsibilities.

Thank you, sir.

[The prepared statement of Mr. Hayden follows:]

STATEMENT OF WES HAYDEN, LEGISLATIVE COUNSEL
INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES
TO SENATE ENERGY AND NATURAL RESOURCES COMMITTEE ON NOMINATION OF
WILLIAM P. HORN TO BE ASSISTANT SECRETARY OF INTERIOR FOR FISH,
WILDLIFE AND PARKS, JULY 24, 1985

Mr. Chairman: Thank you for the opportunity of appearing here this morning on behalf of the International Association of Fish and Wildlife Agencies to share with you and your colleagues our assessment of the nomination of William P. Horn to be Assistant Secretary of Interior for Fish, Wildlife and Parks.

As an organization committed to the cause of sound and balanced resource conservation and management, we attach vital importance to the assignment of responsibilities for the position to someone with a philosophy compatible with that mission as well as possessed of the administrative skills, leadership traits and experience needed to implement it effectively.

Selection of such an individual is, in our view, totally essential to insure a proper working relationship between state and federal interests in shared management of fish and wildlife species and their habitats.

For that reason we studied with care and interest the appointment before you today.

And we have concluded that Bill Horn meets those criteria.

In the first place he brings to the position an impressive and varied list of credentials combining a background of Congressional staff work, with the Interior Department under three Secretaries--Watt, Clark and Hodel--and demonstrated skills in the handling of highly sensitive fishing rights issues both in Alaska and in the Great Lakes area where he now chairs the Great Lakes Fisheries Commission.

His record of success has been consistent in each of those areas of activity, and that alone commends his favorable consideration.

But our assessment goes beyond the record to a judgment of the individual as well.

It is based on our first-hand observations during a recent briefing session in which he participated with representatives of the conservation community, including the IAFWA.

He demonstrated clearly there the knowledge, understanding and sensitivity to the broad range of issues which are of the greatest significance to the fish and game agencies which make up the Association's membership and which are crucial to success for resource conservation and management efforts.

Based on those observations and other evidence of his objectivity and his determination to develop and maintain close working ties between state and federal agencies, particularly through the Fish and Wildlife Service, this Association and its members fully support Mr. Horn's nomination and urge that he be recommended for confirmation. We will look forward to working cooperatively with him thereafter toward resolution of those issues in which we have a common bond and interest.

Meanwhile, your attention and consideration of our views are appreciated.

The CHAIRMAN. Thank you very much, and I thank all three of you witnesses.

I have no questions of any of the three of you. Thank you very much for your appearance and testimony here today.

We will move to our final witnesses this morning, Mr. and Mrs. Gianoutsos. I have to and regret to inform the witnesses that they may have heard the buzzers, which indicate there is a live quorum on the floor of the Senate, which precedes a vote on cloture. And I may at any time very briefly have to depart for that vote. I apologize for that, but I thought before you start your testimony I should say that.

Your entire written statement will be placed in the record, and I would advise you to summarize as quickly and briefly as you conveniently can.

STATEMENT OF FRANCOIS TREFFEL GIANOUTSOS AND THEODORE NICKOLAS GIANOUTSOS, ARLINGTON, VA

Mrs. GIANOUTSOS. Mr. Chairman, thank you for allowing Ted and me to testify at today's hearing.

Of the 33 members of both committees holding today's hearing, 17 Senators, including Chairman Stafford and yourself, Mr. Chairman, were cosponsors of the legislation to establish the National Fish and Wildlife Foundation. We know that you are as concerned as we are about the sabotage of the Foundation and Mr. Horn's role in it.

Bill Horn was the principal author of President Reagan's signing a statement in which the President called the Foundation "an unwise and dangerous precedent." When Bill Horn was asked the meaning of the signing statement he said: "It's just some bullshit for the President's signature so that he can show his disapproval of the Foundation."

Later, in an exclusive interview in the Oval Office with the National Wildlife Federation, President Reagan cited the Foundation as the example of private sector initiative of wildlife conservation and said: "We have pioneered"—I add—"it." Which side of the President's mouth speaks the truth?

Gentlemen, you know how unusual that signing statement is, especially when viewed in the context of a noncontroversial unanimously passed bill with 60 cosponsors, including the leadership of both Houses and both parties and 22 chairmen. You know for what it is, a mean-spirited, vindictive demonstration of fanatical partisanship.

You also know that we have been the victims of many such expressions of fanatical partisanship merely because we happen to be, heaven forbid, outspoken Democrats and in the minds of the fanatics, the Watts, the Devines, and the others like them, we are not to be allowed the privilege and honor of serving our country.

Senators, I know something about political fanaticism. I was born and raised in Europe, where I saw firsthand the consequences of fanaticism, namely socialism, communism, and fascism. Gentlemen, I did not emigrate to America to be illegally prevented from serving my adopted country for 21 months by fanatics.

I did not come to America to watch my husband, who volunteered for 4 years of military service and served 3 years overseas, be illegally fired and escorted under armed guard from Interior, be investigated as a Communist subversive and be prevented from serving his country for 21 months by fanatics.

I did not come to America and give my entire estate to my new country, and I did not found, along with my husband Ted, the National Fish and Wildlife Foundation to see our patriotic acts denigrated by the likes of Watt and Devine and sabotaged by Bill Horn.

In sum, I did not come to America to be, with my husband, victimized by the Reagan administration for more than 1,260 days, and still counting. Such political fanaticism, small mindedness, and retaliatory vindictiveness has no place in our democracy.

Senators, you should be among the first to stand up and speak out against it. You now have the opportunity. Strike a blow for freedom. Reject Bill Horn, the man who has violated the code of ethics for Government service and clearly demonstrated his contempt for the public trust placed in him.

[The prepared statement of Mr. and Mrs. Gianoutsos follows:]

STATEMENT OF THEODORE NICKOLAS GIANOUTSOS AND FRANCOISE TREFFEL GIANOUTSOS, FOUNDERS OF THE NATIONAL FISH AND WILDLIFE FOUNDATION, BEFORE THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS AND THE COMMITTEE ON ENERGY AND NATURAL RESOURCES, U.S. SENATE, ON THE NOMINATION OF MR. BILL HORN TO BE INTERIOR ASSISTANT SECRETARY FOR FISH WILDLIFE AND PARKS.

JULY 24, 1985.

On March 26, 1984 President Ronald Reagan signed into law H.R. 2809 establishing the National Fish and Wildlife Foundation (attachment 1). Last month, in an exclusive interview in the oval office with the National Wildlife Federation, President Reagan cited the Foundation as the example of Private Sector Initiative for wildlife conservation that his Administration PIONEERED (attachment 2). But, on March 26th, after signing the Foundation act, President Reagan also delivered himself of a signing statement (attachment 3) which by all accounts (congressional aides, journalists, bureaucrats, longtime lobbyists, conservation leaders, and politicians) is bizarre, highly negative, vindictive, and mean-spirited, particularly when viewed in the context of a non-controversial bill co-sponsored by 60 Senators and Congressmen, including the Leadership of both Houses and both Parties and 22 Chairmen, which was unanimously passed FOUR times (twice in the Senate and twice in the House). When Mr. Bill Horn was asked the meaning of the statement, as its principal author, he said, "It's just some BULLSHIT for the President's signature, so that he can show his disapproval of the Foundation". How do we know what Bill Horn said? We know because an unimpeachable source told us - Mr. Walter Sanders, senior aide to Chairman John Dingell. Why do we believe Mr. Sanders? Because of the extraordinary interest and concern for the Foundation which Chairman Dingell displayed. When H.R. 2809 was in the hearing stages, Mr. Dingell personally and meticulously went over every word of the bill and suggested several improvements to John Breaux - prime sponsor of the bill. Why? Because John Dingell used to chair Mr. Breaux's committee, is an ardent outdoorsman, hunter, and conservationist and maintains a keen interest in wildlife conservation matters. We know that both Chairman Stafford and Chairman McClure know of and share Mr. Dingell's commitment to wildlife conservation. Mr. Dingell further demonstrated his concern for the bill when the time came for co-sponsorship. He called Ted and asked him to come to his office where he told him, face-to-face, how important the legislation was to wildlife conservation and the work of the Fish and Wildlife Service. He told Ted that he would very much like to be a co-sponsor but, he was concerned that if Chairman Rostenkowski saw his name on the bill when it came before him at a Ways and Means hearing, Rostenkowski would kill the bill because Dingell signed a discharge petition against Rostenkowski (a very rare thing for a full committee Chairman to do to the Chairman of the Ways and Means) and Rostenkowski was furious about it. Within 2 days Ted got a meeting with Chairman Rostenkowski and told him how hard Mr. Dingell had worked on the bill and how concerned he was about it. Ted asked Mr. Rostenkowski if he had any objection to Mr. Dingell being a co-sponsor of the legislation. Mr. Rostenkowski, gentleman that he is, assured Ted that even though he was not happy with Mr. Dingell, he would certainly NOT kill the bill because Dingell's name was on it, but rather see that it got an expeditious hearing and would consider the bill on its merits. Dingell's name was added as a co-sponsor and true to his word, Rostenkowski held a hearing a week or two later and favorably reported out the measure. Mr. Dingell closely followed the bill and strongly supported it in the House. When the President's signing statement was released Chairman Dingell was outraged. He ordered his aide Walter Sanders to find out who wrote it and why. Mr. Sanders did and called Ted to tell him what Mr. Horn had done and what Mr. Horn had said.

Why would Mr. Horn do this? After all,didn't President Reagan call for Private Sector Initiatives and hadn't we responded? Apparently to some in this Administration we are the WRONG kind of people. To whom? To the extremists, ideologues, and fanatical partisans. Mr. Horn's action was but one of many vindictive, inane, petty-partisan, mean-spirited, and retaliatory acts taken against us and the Foundation by some of the most senior members of this Administration. Some of the more notable ones include:

- the illegal targeting and riffing of Francoise from OPM in 1982 by Devine and his aides.

- illegally keeping Francoise out of OPM for 21 months, in violation of her re-employment rights, by Devine and his aides, while more than 500 people were hired (5 times the number riffed).

- downgrading Francoise's performance appraisal rating in reprisal for her wanting to share her Private Sector Initiative of founding the Foudation with her boss Donald Devine.

- the illegal firing of Ted at Interior in reprisal for his disclosing millions of dollars of waste, fraud, and mismanagement directly under Principal Deputy Assistant Secretary and Agency ETHICS Official Richard Hite, Watt's closest and most important aide.

- James Watt's ridicule and denigration of our efforts to establish the Foundation, calling us misguided and accusing us of attempting to buy him and his office.

- the request to the FBI (attachment 4), from the office of the Secretary of the Interior, for an investigation on Ted under the authority of EO 10450, the McCarthy era order (1954) used to find and remove from civil service suspected communist subversives.

- the offering of high level jobs in the Fish and Wildlife Service to Ted by Arnett, Jantzen, and Hite in exchange for his silence on waste, fraud and abuse in the office of the Secretary.

- the removal of Ted from Interior under armed guard by Watt's chief of security and his deputy.

- obstruction and denial of justice by the Special Counsel's office/MSPB by failing to stay Ted's firing and investigate even when informed by none other than the Counsel to the President, Fred Fielding, and subsequently closing and re-opening Ted's and Francoise's cases 5 times (attachment 5 a, b, c).

- repeated attempts to kill the Foundation by Watt, Hite, Bettenburg, Arnett, Potter and Clark.

- failure to properly implement the Foundation law resulting in at least hundreds of thousands and possibly millions of dollars lost to the Fish and Wildlife service (no implementation action taken for 4 months until we met with Prime sponsor John Breaux and he sent letter to Clark - attachment6).

- contempt of Congress by Secretary of the Interior Hodel by his failure to fill 2 vacancies on the Board of Directors of the Foundation which by law must be filled within 60 days.

- using the Foundation to declassify endangered species, specifically the jaguar of North and South America, so that rich hunters may import the hides of these animals as trophies(attachment 7).

Gentlemen, today is the 5th time in 6 months we have come before committees in the Senate and the House to testify on these and other examples of wrongdoing and excesses of some of the most senior members of this Administration. We will continue to do so in the future at appropriate oversight hearings on the Foundation, Interior, OPM and the Office of Special Counsel/MSPB. We have offered to several committee Chairmen to testify under oath. We extend that pledge here today to any Chairman of any committee to testify under oath, at any time, about wrongdoing at Interior, OPM, and Special Counsel/MSPB and especially how the bureaucratic mafias and the fanatical political partisans come together to waste the taxpayers money and abuse the public trust.

The facts are as plain as the nose on your face Mr. Chairman. The Foundation IS the most important example of Private Sector Initiative for wildlife conservation taken during this Administration. The Foundation IS especially appropriate and much needed by the Fish and Wildlife Service during these times of extremely tight budgets and 200 BILLION dollar deficits. The potential of the Foundation is ENORMOUS ! We have conceived of, and suggested to, the Board of Directors of the Foundation, 3 programs, which could easily be implemented, and would yield HUNDREDS of MILLIONS of dollars for the important work of the Fish and Wildlife Service(attachment 8). Unfortunately the Directors have chosen to totally ignore our suggestions. They have even refused to establish our trust fund within the Foundation. Instead of helping the Fish and Wildlife Service, the Foundation has been used by McMillan, Arnett, and Potter to further their own political ambitions. Ironically, Arnett and Potter testified against the Foundation and tried to kill it in every way they could, and then, without shame, came to feed at the trough. Worse is the use of the Foundation to delist endangered jaguars. They have even gone so far as to try and get an additional $20,000 of taxpayer money, authorized as matching funds by Congress for the Foundation. To use taxpayer dollars to allow rich hunters to import jaguar hides as trophies is a corruption of the Foundation's purpose!

The Foundation started as a "generous and patriotic act" on our part (attachment 9a-o). It has been sabotaged and corrupted, and we have been victimized by this Administration for 42 months. For more than 1,260 days we have suffered at the hands of the fanatical partisans. Congress has recognized their excesses. In fact, it was the Senate who forced Watt to resign in disgrace and forced Devine to withdraw his nomination in shame. It is the House which is preparing legislation to abolish the Office of Special Counsel/MSBP in response to his total failure to uphold the law. Can we not be allowed to serve our country FREE from reprisals and harassment? Is there not one or more of you who have the courage to stand up and demand that justice be done? Will you not help the Foundation to achieve its full potential?

Bill Horn has violated the first and most important cannon of the Code of Ethics for Government Service (attachment 10) "PUT LOYALTY TO THE HIGHEST MORAL PRINCIPLES AND TO COUNTRY ABOVE LOYALTY TO PERSONS, PARTY, OR GOVERNMENT DEPARTMENT". He participated in reprisals against us and sabotage of the Foundation in a disgusting demonstration of petty partisanship.

We, on the other hand, have not only reflected the highest standards of the Code of Ethics for Government Service, but have also answered President Reagan's call to eliminate waste,fraud, and mismanagement in the Federal Government. In addition, we have gone beyond our duty as public servants and in answer to President Reagan's call for Private Sector Initiative, as private citizens, we have founded the unprecedented National Fish and Wildlife Foundation.

Senators, you are now presented with a unique opportunity in these hearings. You can vote to confirm Horn and thus make a mockery of President Reagan's priority programs of Private Sector Initiative and the elimination of waste, fraud and mismanagement, and also turn your back on two honest civil servants doing their duty.Or, you can strike a blow for freedom and REJECT Horn and thus serve notice to the Administration that the Senate puts justice for the average citizen FIRST!

THE CHOICE IS YOURS.

16 USC 3706 SEC 7 AUDITS, REPORT REQUIREMENTS, AND PETITION OF ATTORNEY GENERAL FOR EQUITABLE RELIEF

(a) AUDITS — For purposes of the Act entitled "An Act for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (Public Law 88 504, 36 U S C 1101 1103), the Foundation shall be treated as a private corporation established under Federal law

(b) REPORT — The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress a report of its proceedings and activities during such year, including a full and complete statement of its receipts, expenditures, and investments

(c) RELIEF WITH RESPECT TO CERTAIN FOUNDATION ACTS OR FAILURE TO ACT — If the Foundation

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with its purposes set forth in section 2(b), or

(2) refuses, fails, or neglects to discharge its obligations under this Act, or threatens to do so;

the Attorney General of the United States may petition in the United States District Court for the District of Columbia for such equitable relief as may be necessary or appropriate

16 USC 3707 SEC 8 UNITED STATES RELEASE FROM LIABILITY

The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation nor shall the full faith and credit of the United States extend to any obligation of the Foundation

16 USC 3708 SEC 9 AMENDMENT AND REPEAL

The Congress expressly reserves the right to repeal or amend this Act at any time

16 USC 3709 SEC 10 AUTHORIZATION OF APPROPRIATIONS

For the ten year period beginning on October 1, 1984, there are authorized to be appropriated to the Department of the Interior not to exceed $5,000,000 to be made available to the Foundation—

(1) to match, on a one for one basis, private contributions made to the Foundation; and

(2) to provide administrative services under section 5

Approved March 26, 1984

LEGISLATIVE HISTORY H R 2989

HOUSE REPORTS No 98 134, Pt 1 (Comm on Merchant Marine and Fisheries) and Pt 2 (Comm on Ways and Means)
SENATE REPORT No 98 272 (Comm on Environment and Public Works)
CONGRESSIONAL RECORD
Vol 129 (1983) July 12, considered and passed House
Nov 3, considered and passed Senate, amended
Vol 130 (1984) Feb 6, House concurred in Senate amendments and in another with an amendment
Mar 8, Senate concurred in House amendment
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol 20 No 13
Mar 26, Presidential statement

Attachment # 1.

Public Law 98 244
98th Congress

An Act

To establish a National Fish and Wildlife Foundation

Mar 26, 1984
[H R 2989]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Fish and Wildlife Foundation Establishment Act
16 USC 3701 note

SECTION 1 SHORT TITLE

This Act may be cited as the "National Fish and Wildlife Foundation Establishment Act"

16 USC 3701

SEC 2 ESTABLISHMENT AND PURPOSES OF FOUNDATION

(a) ESTABLISHMENT — There is established the National Fish and Wildlife Foundation (hereinafter in this Act referred to as the "Foundation") The Foundation is a charitable and nonprofit corporation and is not an agency or establishment of the United States

(b) PURPOSES — The purposes of the Foundation are —

(1) to encourage, accept, and administer private gifts of property for the benefit of, or in connection with, the activities and services of the United States Fish and Wildlife Service, and

(2) to undertake and conduct such other activities as will further the conservation and management of the fish, wildlife, and plant resources of the United States, and its territories and possessions, for present and future generations of Americans

16 USC 3702

SEC 3 BOARD OF DIRECTORS OF THE FOUNDATION

(a) ESTABLISHMENT AND MEMBERSHIP — The Foundation shall have a governing Board of Directors (hereinafter referred to in this Act as the "Board"), which shall consist of nine Directors, each of whom shall be a United States citizen and

(1) six of whom must be knowledgeable or experienced in fish and wildlife conservation; and

(2) three of whom must be educated and experienced in the principles of fish and wildlife management

The membership of the Board, to the extent practicable, shall represent diverse points of view relating to fish and wildlife conservation The Director of the United States Fish and Wildlife Service shall be an ex officio nonvoting member of the Board Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal law

(b) APPOINTMENT AND TERMS — By December 31, 1984, the Secretary of the Interior (hereinafter referred to in this Act as the "Secretary") shall appoint the Directors of the Board The Directors shall be appointed for terms of six years, except that the Secretary, in making the initial appointments to the Board, shall appoint three Directors to a term of two years, three Directors to a term of four years, and three Directors to a term of six years A vacancy on the Board shall be filled within sixty days of said vacancy in the manner in which the original appointment was made No individual may serve more than two consecutive terms as a Director

77

(c) CHAIRMAN.—The Chairman shall be elected by the Board from its members for a two-year term.

(d) QUORUM.—A majority of the current membership of the Board shall constitute a quorum for the transaction of business.

(e) MEETINGS.—The Board shall meet at the call of the Chairman at least once a year. If a Director misses three consecutive regularly scheduled meetings, that individual may be removed from the Board and that vacancy filled in accordance with subsection (b).

(f) REIMBURSEMENT OF EXPENSES.—Members of the Board shall serve without pay, but may be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Foundation.

(g) GENERAL POWERS.—(1) The Board may complete the organization of the Foundation by—

(A) appointing officers and employees;

(B) adopting a constitution and bylaws consistent with the purposes of the Foundation and the provisions of this Act; and

(C) undertaking of other such acts as may be necessary to carry out the provisions of this Act.

(2) The following limitations apply with respect to the appointment of officers and employees of the Foundation:

(A) Officers and employees may not be appointed until the Foundation has sufficient funds to pay them for their service. Officers and employees of the Foundation shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS-18 of the General Schedule.

5 USC 5101 et seq.
5 USC 5331
5 USC 5332

(B) The first officer or employee appointed by the Board shall be the Secretary of the Board who (i) shall serve, at the direction of the Board, as its chief operating officer, and (ii) shall be knowledgeable and experienced in matters relating to fish and wildlife conservation.

16 USC 3703

SEC. 4. RIGHTS AND OBLIGATIONS OF THE FOUNDATION.

(a) IN GENERAL.—The Foundation—

(1) shall have perpetual succession;

(2) may conduct business throughout the several States, territories, and possessions of the United States;

(3) shall have its principal offices in the District of Columbia; and

(4) shall at all times maintain a designated agent authorized to accept service of process for the Foundation.

The serving of notice to, or service of process upon, the agent required under paragraph (4), or mailed to the business address of such agent, shall be deemed as service upon or notice to the Foundation.

(b) SEAL.—The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

(c) POWERS.—To carry out its purposes under section 2, the Foundation shall have, in addition to the powers otherwise given it under this Act, the usual powers of a corporation acting as a trustee in the District of Columbia, including the power—

(1) to accept, receive, solicit, hold, administer and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

(2) to acquire by purchase or exchange any real or personal property or interest therein;

(3) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain or otherwise dispose of any property or income therefrom;

(4) to borrow money and issue bonds, debentures, or other debt instruments;

(5) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except that the Directors of the Board shall not be personally liable, except for gross negligence;

(6) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its function; and

(7) to do any and all acts necessary and proper to carry out the purposes of the Foundation.

Gifts and property

For purposes of this Act, an interest in real property shall be treated as including, among other things, easements or other rights for preservation, conservation, protection, or enhancement by and for the public of natural, scenic, historic, scientific, educational, inspirational, or recreational resources. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of the Foundation.

(d) CERTAIN LANDS, WATERS, AND INTERESTS NOT SUBJECT TO CONDEMNATION.—No lands or waters, or interests therein, that are owned by the Foundation and are determined by the Director of the United States Fish and Wildlife Service or the Migratory Bird Conservation Commission, as the case may be, to be valuable for purposes of fish and wildlife conservation or management shall be subject to condemnation by any State or political subdivision, or any agent or instrumentality thereof.

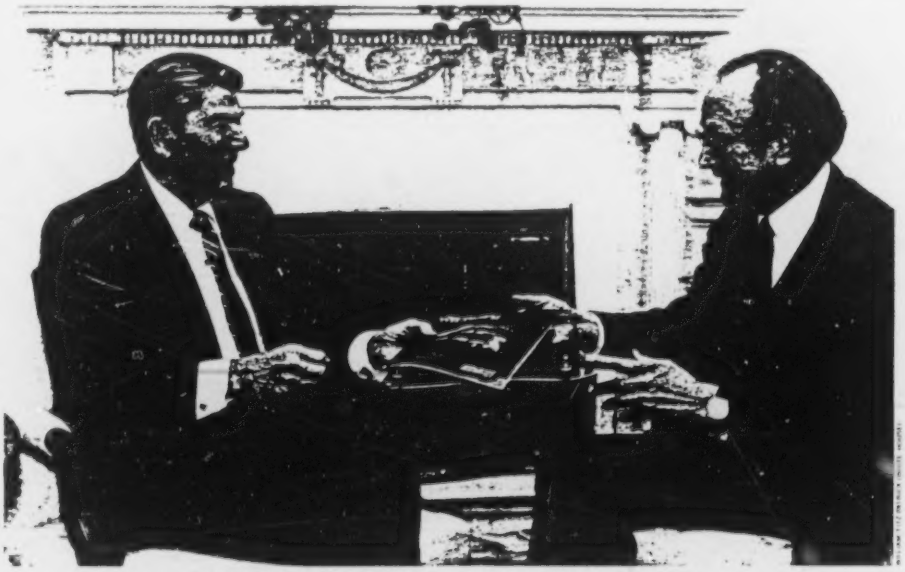
SEC. 5. ADMINISTRATIVE SERVICES AND SUPPORT. 16 USC 3704

The Secretary may provide personnel, facilities, and other administrative services to the Foundation, including reimbursement of expenses under section 3, not to exceed then current Federal Government per diem rates, for a period of up to five years from the date of enactment of this Act, and may accept reimbursement therefor, to be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing such services.

SEC. 6. VOLUNTEER STATUS. 16 USC 3705

The Secretary may accept, without regard to the civil service classification laws, rules, or regulations, the services of the Foundation, the Board, and the officers and employees of the Board, without compensation from the Department of the Interior, as volunteers in the performance of the functions authorized herein, in the manner provided for under section 7(c) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(c)).

Attachment # 2.



President Reagan talks with Editor John Strohm in the Oval Office.

Exclusive Interview

President Reagan Gives His Views on Wide-Ranging Conservation Issues

In an exclusive interview with *National Wildlife* magazine, President Ronald Reagan answered some far ranging questions from Editor John Strohm.

The questions were submitted in advance to the President, who asked his staff to research his answers. After making some changes, he gave final approval. Meanwhile, Strohm met with the President in the Oval Office to discuss some of the questions and to talk about the wildlife on the President's California ranch. Following is a complete report of Strohm's questions, and the President's answers.

Wildlife: *You've often spoken eloquently of the "shining city on a hill" when talking about the future you see for America. Isn't clean air and water, better stewardship of the land, a sane energy policy, and safeguarding our precious wildlife resources an essential part of the picture?*

Reagan: Absolutely. America's tremendous economic recovery has been achieved while preserving the wildlife, scenic grandeur and other environmental treasures we Americans hold dear.

In fact, these values have been enhanced through such initiatives as the billion dollar park restoration and improvement program, the great surge in private sector contributions of time, land, money and equipment to the parks and wildlife refuge systems, several exciting fishery restoration projects, and the Chesapeake Bay recovery effort — just to name a few.

During my second administration, we're going to continue to be good stewards of all these priceless resources.

Wildlife: *Of all the major environmental problems facing us in this country today, which do you consider the most pressing? And how will your administration address the issue?*

Reagan: Well, there are several — and we are addressing each of them. Certainly we are going to keep working on identifying and cleaning up toxic waste sites. Of equal importance is implementing the recently enacted changes to

the Resource Conservation and Recovery Act, which regulates currently operating toxic waste disposal sites. A strong RCRA program is insurance against the mistakes that led to the need for the Superfund.

We also must continue our aggressive effort to identify the factors that contribute to acid deposition so that we can determine whether our existing air pollution controls are sufficient.

Wildlife: *Of the thousands of toxic dumps listed by the EPA as dangerous, only a handful are being cleaned up, in spite of Superfund. Both Bill Ruckelshaus, former EPA Administrator, and Lee Thomas, your present Administrator, feel much more money is going to be needed. Will you support a $10 billion fund in order to get the job done faster and help people feel safer?*

Reagan: First of all, it's not true that only a handful of the toxic dumps are being cleaned up. Work has been done at hundreds of sites, including emergency cleanup and engineering studies. Keep in mind that each site is different, and with groundwater or deep soil contamination, you can't just bring in a bulldozer and be done with it. Some sites will take years to clean up.

When we took office the Superfund had just been authorized. We had to start from scratch on a problem that had been ignored for decades. Our cleanup record is a good one, and we'll keep moving ahead on this.

In my last two State of the Union Addresses, I committed our administration to support Superfund reauthorization. On February 22, I sent to the Congress proposed legislation to keep that commitment. The bill would more than triple the size of the Superfund program — from $1.6 billion to $5.3 billion over the next five years. The EPA has estimated that it cannot prudently spend more than $1 billion per year, so our proposal sets the best funding level for getting the job done.

In addition to the expansion of Superfund, we have asked for increased enforcement authority to make responsible parties either do the cleanup or pay for it. We also want a larger role for affected citizens and the states, and expanded authority to respond to emergencies.

There's no doubt we have to move forward aggressively to eliminate the dangers caused by years of past waste disposal practices. It takes time, but we're getting it done.

I have instructed EPA Administrator Lee Thomas to make reauthorization of the Superfund his highest priority.

Wildlife: *Many of your administration's environmental policies seem directed toward changing the role of the Federal government. What do you believe is the appropriate role of the government in environmental protection?*

Reagan: I believe one of the most important responsibilities of government is protection of the environment — air, water, wildlife, parks and so forth. But let's remember that in our country there are several levels of government. What we have tried to do is restore the partnership of the Federal government with the states in protecting the environment.

> *"The open lands, the wild lands, are an important part of our heritage, and I think every American should have the opportunity to experience that."*

Some of these protections require Federal leadership because, if a problem is not dealt with adequately in one state, the problem "flows," so to speak, into neighboring states.

But there are many environmental and resource protection measures that are better and more effectively handled by states or localities.

We have been trying to restore the principle that the Federal government should take the lead in environmental protection and managing natural resources where the national interest is involved, and that the states and localities should shoulder the responsibilities where they can and should be doing the job.

That Federalist principle is a sound one and a very American one. Overly restrictive, overly costly and inappropriate Federal regulations too often have done more harm than good.

Wildlife: *If states are given the responsibility for setting environmental standards, isn't there a possibility that many will enter into competition for new or relocated industry by reducing stringent environmental controls?*

Reagan: That is a legitimate concern in some cases. We support and are enforcing the laws that require states to establish and police environmental standards.

For example, surface mining regulation is one instance where Congress says the states must meet certain standards, and the Federal government must intervene if they don't. We have intervened — we've taken over two state programs — when they failed to live up to the standards established under the Federal strip mining law.

But we think in most instances the states should enforce environmental protection programs, and should have reasonable flexibility to tailor regulations to adjust to the situations within each individual state.

Wildlife: *The Endangered Species Act requires that the habitat needs of certain troubled species take precedence over Federally authorized development. Do you believe that water development projects, as one example, should be modified or even cancelled when necessary to protect the habitat of an endangered species?*

Reagan: As you know, the Endangered Species Act provides for Federal activities to be carried out so that endangered species are not jeopardized. Under the conditions you state in your question — where it is the only alternative to protect an endangered species — modification of the project or, if necessary, cancellation may be appropriate.

As you also know, the act as amended does provide for Congressional consideration of waivers in cases of unresolvable conflict. This provision has been little used. When it has, satisfactory alternatives have usually been found to protect endangered species and let the project go through. We believe that sound planning and active public involvement can minimize conflicts and, in most cases, resolve them.

Wildlife: *When you go to Canada next week to meet with Prime Minister Mulroney, the number one topic may be acid rain. What will you say when he asks what Uncle Sam is going to do?*

Reagan: What many people do not realize is that the United States leads the

world in air pollution control. Since 1975, the U.S. has reduced sulphur dioxide by 26%. New automobiles are equipped with pollution controls that almost eliminate emissions of hydrocarbon and carbon monoxide. As a people, we have spent over $150 billion in higher fuel costs and electric power rates to achieve these reductions.

This year, I have asked Congress for a 33% increase in funds, $88 million, to conduct research on the causes of acid rain and ways which its damage may be corrected.

Independent of acid rain controls, the EPA has proposed new regulations which will reduce the suspected pollutants. These include new controls for tall stacks at utility plants and reductions in lead added to gasoline. Uncle Sam has been doing his part to make our common environment better.

Wildlife: *Mr. President, your ranch and your visits there provide for you a respite from the tough job in the White House. Our readers would be interested in how you manage your ranch and what you enjoy most about the land and wildlife. Do you attempt or manage the land for any particular wildlife?*

Reagan: I'm not at the ranch as much as I'd like — and never for more than a few days at a time. So I'm not able to run cattle there or actively manage it at all, anymore. But Nancy and I maintain the ranch as open land and we enjoy seeing the hawks, the blacktailed deer, the raccoons and possums, and the other animals that live there.

I think it's important for us to keep open lands in the United States. There's something about the wide open spaces that gives you a real feeling of freedom, and I think the pioneers who settled the West felt that. That's one of the things I enjoy most about the ranch. It brings me back to a sense of history, of remembering where we came from, how our country grew, and what kind of people made it. The open lands, the wild lands, are an important part of our heritage, and I think every American should have the opportunity to experience that.

Wildlife: *About 50 years ago, another President convened a White House conference to address fish and wildlife protection issues. Out of that grew the National Wildlife Federation. Now half a century later, how do you feel about the possibility of calling another White House conference to address conservation and environmental issues?*

Reagan: Well, a lot of good came out of that first North American Wildlife Conference called by President Roosevelt in 1936. Not only did it foster the birth of the General Wildlife Federation, which later became the National Wildlife Federation, but it set in motion the annual series of North American conferences as a way for professionals in the fields of fish and wildlife and natural resource management to meet and discuss current issues and directions.

> *"Recommendations coming out of the Council (NWF's Corporate Conservation Council) will get a fair hearing in this White House."*

Regarding the origins of Presidential involvement in the progress of natural resource management in this country, I think you can look back even further, when another Roosevelt, Theodore, established the tradition of involvement with the natural resources community. I'd like to help carry on that tradition.

Wildlife: *The present problems of the deficit have focused attention upon wasteful programs and government subsidies. Should the Federal government continue to hold sales of public timber that lose money and charge ranchers less than the market rate for grazing livestock on public lands?*

Reagan: First, let me answer your question about grazing fees. This is a topic that Congress will be addressing soon. As you know, Congress established a formula for determining fair market value for grazing livestock on public lands and directed that the formula be used and studied on a 3-year trial basis. We are nearing the end of that test period and will be making recommendations to the Congress in the near future. I'm not ready yet to say what our recommendations will be, but I think it is important that the public receive a reasonable return for use of the public resources.

With regard to public timber sales, this is an important revenue source and is the economic livelihood of many of our small towns and communities. Our budget for this year proposes that we change the calculation of receipt sharing to reflect the annual costs of sales, which will probably discourage sales that lose money. There are many things that must be considered in deciding whether or not to harvest. Cost is one that has to be weighed heavily in the decision process.

Wildlife: *You have signed legislation creating more Wilderness areas than any other President. There are those who argue that we have now established enough. Others hold that we need to protect additional Wilderness. What is your position?*

Reagan: America is blessed with abundant land, water and wildlife resources that provide excellent opportunities to our citizens for outdoor activities. We are fortunate that our predecessors in this government had the foresight to establish great national parks, Wilderness, and wildlife refuge systems to protect the best of these national treasures.

Protection of the nation's park, wilderness and wildlife resources has been and continues to be a high priority of this administration. It is a goal I stressed to Secretary Hodel when I nominated him to be Secretary of the Interior.

With regard to the question of whether we have enough Wilderness already, the Congress established a procedure for inventorying and studying our resources to determine their suitability for designation as Wilderness. We continue to study lands to determine which areas possess Wilderness characteristics and should be protected and preserved. The system provides for input from all interested parties, with the final designation decision resting with the Congress, following recommendations from the Executive Branch.

While there is no absolute answer to your question on how much Wilderness is needed, I think the process established by Congress provides for proper consideration in reaching wise decisions.

Wildlife: *The National Wildlife Federation believes the private sector must take the lead in solving many environmental problems. With this in mind, we have established the Corporate Conser-*

ation Council as a forum in which these issues can be discussed. Would you offer your views on the [illegible] you see for the private sector and the value of this kind of exchange?

Reagan: Well, I'm tempted to say, "Welcome to the team!" The National Wildlife Federation isn't alone, by any means, in believing that we need to tap the vast talent and know-how the private sector can offer in dealing with the nation's natural resource issues. I'm for using the broadest array of expertise we can put together to address these matters.

We've always believed that this was the way to go, and that government can't do the job alone. That's the motivation behind our private sector initiative effort. We've been trying to open up the avenues by which business and industry can tackle some of these issues that are growing beyond the means of any one organization or government agency to solve.

If your Corporate Conservation Council can support these ventures and provide a forum for ideas on how best to build these sorts of partnerships, it will be doing a real service. I can assure you that any recommendations coming out of the council or any similar body will get a fair hearing in this White House.

We've pioneered a number of private sector projects at the Interior Department. For example, the new National Fish and Wildlife Foundation will help promote even greater private sector involvement in fish and wildlife issues. The Foundation, as you know, is designed to encourage donations of funds and property to support the activities of the U.S. Fish and Wildlife Service.

So we've got the ball rolling, and I welcome the Federation's Corporate Conservation Council to help us keep it going with your ideas, your direction, and your support.

Wildlife: *Many studies have concluded that pollution controls actually provide economic benefits through increased employment and business profits. Isn't this a strong argument for pollution cleanup?*

Reagan: Let's just say that I don't need that argument to convince me of the need for pollution prevention and pollution cleanup. The strongest *economic* argument for pollution prevention and cleanup is the fact that excessive pollution levies some very heavy costs—costs in terms of added health care problems, avoidable injury, deterioration of structures and equipment, and harm to tourism and recreation attractions.

Pollution abatement and cleanup do provide opportunities for some new businesses, and more employment. Of course, we also have to recognize they add to the final cost of goods and services. Consumers either pay the higher costs for the U.S. made goods, or perhaps switch to cheaper imports, adding to our international balance of trade deficit. This same process also can price U.S. goods out of international markets, with the same consequences.

I think the point here is that pollution control has both benefits and costs, and that a wise government learns to weigh both carefully as it protects the public interest.

Wildlife: *Mr. President, your ranch and being out-of-doors obviously give you a great sense of well-being for renewal. For the vast majority of Americans, their "ranch" is found in parks, wilderness areas, refuges — public lands. When you head for your ranch, Mr. and Mrs. Joe Citizen pack up the kids and visit parks, go fishing, camping, hiking and backpacking. Would you support investments in parks, natural areas, etc., to protect this outdoor heritage? Many of our readers might wonder if deferral does not mean loss of these lands.*

Reagan: Yes, I support investments in parks, natural areas and other portions of our outdoor heritage, and our track record shows it.

> *"The strongest economic argument for pollution prevention and cleanup is the fact that excessive pollution levies some very heavy costs."*

From 1981 through 1984, the National Park Service spent over $365 million to acquire nearly 64,000 acres of new parkland. More than 10,000 acres were acquired by donation or transfer. Another $66.8 million is available in 1985 for the National Park System.

As you know, we have recommended a three-year moratorium, beginning in 1986, on purchase of new Federal parklands in light of our national need to do something about the budget deficit. But our commitment to protecting our outdoor heritage has not diminished. In fact, even our 1986 budget request includes $11.3 million for emergency land acquisitions so that truly threatened areas will not be lost. We will continue to seek creative alternatives to Federal purchase, such as land exchanges, donations and easements, until our Federal budget situation allows us once again to buy additional lands.

In addition, as many of your members know, we have just completed — one year ahead of schedule — a historic park restoration and improvement program which provided more than $1 billion for restoration and improvement of facilities in the National Park System. For too long those parks had been left to deteriorate. Now, they've been cleaned up.

We'll keep working with individuals and businesses to encourage private initiatives to benefit the nation's outdoor heritage. It's a birthright of all Americans.

Wildlife: *Finally, Mr. President, what would you like to leave as the environmental legacy of your terms in office?*

Reagan: Early in this century, President Theodore Roosevelt said that we should treat the natural resources as assets which we must turn over to the next generation increased and not impaired in value.

That's the legacy I want to leave — fewer toxic waste hazards, cleaner air and water, identification of causes and a framework for reduction of acid rain, better maintained and managed national parks, improved protection for wetlands, effective fishery restoration, more recovery programs for endangered species, additional wilderness, and a new spirit of partnership in the stewardship of the land and its resources.

This legacy would include the promise of a future free of international conflict that would bring the ultimate in environmental disaster. And the legacy would include an America that has the economic vitality to maintain and protect the environmental ethic so well stated eight decades ago by Teddy Roosevelt. ■

Attachment #3.

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release March 26, 1984

STATEMENT BY THE PRESIDENT

I have signed today H.R. 2809, a bill "To establish a National Fish and Wildlife Foundation."

H.R. 2809 would establish the National Fish and Wildlife Foundation to encourage and administer donations of real or personal property, in connection with U.S. Fish and Wildlife Service programs and other activities to conserve fish, wildlife, and plant resources of the United States. The Foundation's governing Board of nine Directors would be appointed by the Secretary of the Interior. H.R. 2809 would also authorize the Attorney General to sue the Foundation if it should appear that the Foundation's actions are inconsistent with the purposes of the Act.

I have signed H.R. 2809 because it promotes important conservation and preservation goals and encourages private sector initiative to aid us in attaining those goals. I must note my serious reservations about the approach taken in the bill. Before this bill was passed, the Department of Justice advised the Congress that the bill's provisions, taken together, create ambiguity about whether the Foundation is to be a private entity or an establishment within the Executive branch. The statements in the bill to the effect that the Foundation shall be a nonprofit, charitable corporation and that it shall not be an agency or establishment of the United States are contradicted by the facts that the Foundation is established by Congress, funded by Congress, and endowed with the sole purpose of assisting and benefiting a Federal agency, the U.S. Fish and Wildlife Service; its property is made exempt from condemnation by State and local governments; and its Directors are all appointed by the Secretary of the Interior. Moreover, the bill exempts the Foundation from certain provisions of the United States Code which would be clearly inapplicable if the Foundation were truly nongovernmental.

Entities which are neither clearly governmental nor clearly private should not be created. The Supreme Court has recently warned against constitutional innovations merely because they seem to be expedient. Establishment of the Foundation under the terms of the bill is an unwise and dangerous precedent. I have, therefore, given serious consideration to vetoing the bill even though I support its laudable objectives. I have not done so because the Attorney General has advised that the bill can be given a constitutional construction.

I have been advised by the Attorney General that the governmental character of the Foundation predominates. Under the Supreme Court's cases, the character of an agency will be determined by its functions, not its label. Buckley v. Valeo, 424 U.S. 1 (1976). On this basis, the Foundation must be regarded as an establishment within the Executive branch. The Directors of the Foundation, therefore, will be removable at the discretion of the Secretary of the Interior because they are appointed by him and they exercise no powers which

more

(OVER)

enforce compliance through suit by the Attorney General, an aspect of the bill which raises significant constitutional issues. In addition, I have directed the Attorney General and the Secretary to examine the other provisions of the bill to determine how they should be given effect consistent with constitutional principles.

# # # #

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

attachment # 4.

June 21, 1983

note: 5 days after meeting with WATT.

Executive Agency Unit
Federal Bureau of Investigation
J. Edgar Hoover Building - Room 5210, TL-243
Ninth and Pennsylvania Avenue, N.W.
Washington, D.C. 20535

Dear Sir:

In conjunction with an official investigation, pursuant to E.O. 10450, it is requested that a check of the FBI Identification Records be made on the following individual:

Name: Theodore N. Gianoutsos
Date of Birth: 8-5-42
Place of Birth: Southbridge, MA
Social Security Number: 017-32-0429
Residence: Arlington, VA
Oxon Hill, MD
Boca Raton, FL

It is requested that the results of your records check be mailed to:

Mr. Robert A. Smoak
Chief, Division of Enforcement and Security Management
U.S. Department of the Interior
18th & C Streets, N.W. - Room 5426
Washington, D.C. 20240

Check of FBI Headquarters investigative files based upon data submitted and limited pursuant to established policy located no identifiable information pertinent to your inquiry. This is not to be considered as a clearance. A request to check arrest records must be submitted to FBI Identification Division. Fingerprints are necessary for a positive check.

Thank you for your assistance in this matter.

Sincerely,

Robert A. Smoak

Robert A. Smoak
Chief, Division of Enforcement
and Security Management, PMO

TR

Steve FYI
Attachment 5a.

LES AuCOIN
1st District, Oregon

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

Sept. 7, 1983

Mr. James A. Baker III
Chief of Staff
The White House
Washington, D.C. 20500

Dear Mr. Baker:

It has come to my attention that Mr. Theodore Gianoutsos has been notified of his imminent dismissal from his position as senior analyst at the Department of Interior.

I have also come to know that within the Department of Interior it is widely know that Mr. Gianoutsos has knowledge of some malfeasance regarding public funds. Furthermore, I have learned that as a prelude to his dismissal, Mr. Gianoutsos has been placed in a 30-day non-work status.

I am writing to urge you to personally review this case before the end of the 30-day period, for it would be indeed alarming if a sincere whistle blower was removed for doing his duty.

I also ask that I be kept advised of the White House progress on this case, for it will be my intention, without taking sides in this dispute, to ask the Chairman of the House Appropriations Subcommittee on Interior to ask Mr. Gianoutsos to come before our subcommittee and brief us fully.

With warm regards,

Sincerely,

LES AuCOIN
Member of Congress

cc: James Watt

2446 RAYBURN HOUSE OFFICE BUILDING, WASHINGTON, D.C. 20515 (202) 225-0855
1716 FEDERAL BUILDING, 1220 SW THIRD, PORTLAND, OREGON 97204 (503) 221-2901, OREGON TOLL FREE LINE 1-800-452-1920

SE? 5b.

THE WHITE HOUSE

WASHINGTON

October 5, 1983

Dear Congressman AuCoin:

Thank you for your recent letter concerning Mr. Theodore Gianoutsos' proposed removal from his position as a management analyst at the Department of Interior.

While I appreciate your concern, I believe this is a matter which more properly comes within the purview of the Special Counsel of the Merit Systems Protection Board, pursuant to his authority as set forth in Title 5 of the United States Code. Accordingly, I have asked the Counsel to the President to forward your inquiry to the Special Counsel, for his review.

Sincerely,

James A. Baker, III
Chief of Staff and
Assistant to the President

The Honorable Les AuCoin
U.S. House of Representatives
Washington, D.C. 20515

CLARENCE D. LONG
2D DISTRICT, MARYLAND

COMMITTEE ON
APPROPRIATIONS

CHAIRMAN
SUBCOMMITTEE ON
FOREIGN OPERATIONS

MEMBER
SUBCOMMITTEE ON
MILITARY CONSTRUCTION

TREASURY, POSTAL SERVICE,
GENERAL GOVERNMENT

Congress of the United States
House of Representatives
Washington, D.C. 20515

2408 RAYBURN BUILDING
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(202) 225-3061

DISTRICT OFFICE:
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CHESAPEAKE AND
WASHINGTON AVENUES
TOWSON, MARYLAND 21204

"OFFICE ON WHEELS"

5c.

December 5, 1983

President Ronald Reagan
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. President:

I am writing to bring to your attention a letter I received from two distinguished civil servants, Ted and Francoise Gianoutsos, who appear to have been improperly terminated from their jobs.

I am especially concerned about the allegation that Mr. Gianoutsos was fired from the Department of Interior as reprisal for whistleblowing — an action specifically prohibited by law.

I would appreciate it if you would look into this matter and advise me of what actions are being taken.

Sincerely,

CLARENCE D. LONG

CDL:cas
enclosure

U.S. House of Representatives
Committee on
Merchant Marine and Fisheries
Room 1334, Longworth House Office Building
Washington, D.C. 20515

attachment #6

August 3, 1984

Honorable William P. Clark
Secretary
Department of the Interior
Washington, D. C. 20240

Dear Secretary Clark:

On March 26, 1984, the President signed the Fish and Wildlife Foundation Act into law (P.L. 98-244). The law provides for the establishment of a Foundation to encourage, accept and administer gifts of properties and services for the benefit of the U.S. Fish and Wildlife Service and to conduct other activities as will further the conservation of fish and wildlife resources of the U.S.

I believe this legislation is an important incentive to encourage volunteers to become involved in the conservation of wildlife in general and the work of the Fish and Wildlife Service in particular. I hope that the legislation will be implemented promptly and properly.

To this end, I would appreciate receiving from you a schedule of implementation of the Act, including in particular the selection of the board of directors of the Foundation and plans for applying for tax exempt status for the Foundation.

Thank you for your consideration.

Sincerely,

/s/

JOHN B. BREAUX
Chairman
Subcommittee on Fisheries
and Wildlife Conservation
and the Environment

cc: G. Ray Arnett
bcc: Ted Gianoutsos

Attachment #7.

THE PRESIDENT'S MESSAGE

by Don McMillan

I very recently returned from a hunt and tour in the Republic of South Africa along with fifteen others, most of them members of Safari Club International. For those of you who have not traveled to the country of South Africa I want to assure you that both hunting and touring in that country is a truly wonderful experience. The people are as friendly as you will find anywhere, the scenery is spectacular and game animals are very abundant, to say the least. It is a hunter's paradise and a real bargain for Americans at this time. The U.S. dollar will go twice as far as it did two years ago, for example.

Contrary to what you may have read and heard, South Africa was as safe for travel as the United States. I found that the people of South Africa were very concerned about their image in the world today and were very willing to talk to people from other countries, such as the United States. Hopefully, the rest of the world will not pass judgement on this country on the basis of distorted reports that seem to come before us through political motivation. The people of that great country realize that have problems which are very unique to their area. We must have patience with the turning of the changes that will be made in these areas. Also, until we have established an idealistic society here in the U.S. free from racism, corruption and other crimes against humanity, we should put our criticism in the proper prospective. If you enjoy hunting and the experience of a great vacation, I would strongly suggest that you consider a trip to South Africa. Believe me, you will not regret it.

continued, page 36

PRESIDENT'S MESSAGE

continued from page 7

While we are on the subject of Africa I am very happy to report to you that SCI has purchased the hunting rights in two prime areas in the country of Zimbabwe. This decision was made after considerable discussion by the officers of SCI, the Executive Committee and the Board of Directors. The areas are located in the Northwestern part of Zimbabwe not far from Victoria Falls and the Zambezi River. This area is also called the Matetsi Area of Zimbabwe and has supplied some top trophies which have ranked high in the SCI Record Book. Some of the trophies that are available include: lion, elephant, cape buffalo, leopard, sable, common waterbuck, kudu plus a host of others. The accommodations are very deluxe and observers are welcome at a very reasonable cost. Information on hunting in these areas is available from SCI headquarters in Tucson.

Our objectives in the Zimbabwe endeavor are two-fold. The profit from the hunting operations will help us fund various conservation projects in the United States and Africa and, in particular, the country of Zimbabwe in conjunction with National Parks and Wildlife Management in that country. Secondly, we will be able to offer some very excellent hunting opportunities to our members as a benefit for belonging to SCI. Many other considerations are of direct benefit to the country of Zimbabwe. We are employing several professional hunters in that country as well as a number of other people who serve various aspects of a hunt. And, of course, we are providing an influx of much-needed U.S. dollars into a developing and progressive African country in the form of trophy fees and concession fees.

As we end another year of activity for SCI as the First of July, I look forward to seeing us become more involved in legislative and governmental affairs in the future. We plan to take a more active role in issues such as the jaguar importation and the U.S., the crocodile, the polar bear and issues which face professional hunters and hunters in the State of Alaska. We met with the Alaska Professional Hunters Association in Alaska on April 1, 1985 to discuss some of the very important issues which face all of us in that state. Although we are faced with anti-hunting forces and regulatory problems in all of the United States, the State of Alaska has more than its share at this time. All of these issues will affect our hunting in the future. With your help we will be able to do more in these areas.

We have recently commissioned a study of the jaguar population in areas of Latin and South America in conjunction with the Department of the Interior, which we hope will pave the way for the importation of legally hunted trophies into this country. This is the same situation that we faced with the leopard a few years ago and just as we were successful in correcting that inequity we hope to see similar action with other species. The jaguar, polar bear and the crocodile are not endangered in many countries and should come into the U.S. in the form of legally taken trophies, just as the leopard.

My sincere thanks to all of you for supporting the goals of SCI in the past, the conservation of wildlife and the preservation of hunting as a sport. I look forward to serving you for another year.

WAIDMAN'S DANK

continued from page 20

dumered.

There was no need for another shot, however, and I had a real nice bull. The horns were just under 37 inches with very heavy bases, which is a very good bull for this area.

Both shots had taken my bull just behind the shoulder, but the stamina of African game is unbelievable. The skin on the gemsbok is very thick and I don't think you would be overgunned with a gun in the .375 H&H class for these animals.

My hunt in Namibia was almost over, but I still had one more highlight to this trip. As a side attraction after the hunter has taken his game, Hermann likes to take his hunter to the Etosha Pan on a photographic sight-seeing trip. The Etosha National Park is one of the largest in the world. You can see thousands of animals in large herds virtually undisturbed; it is truly a paradise for wildlife. Elephant, lion and many different species of antelope roam as they have for thousands of years in Africa. If you are going to be in this part of Africa, I would highly recommend you take a few extra days to see this wonderful place.

As we bid our farewells I gave one more Waidmans Dank with a promise to return again some day to this great game-rich country and its hospitable people.

Anyone interested in this hunt can write Hermann Redecker at P.O. Box 180, Otjiwarongo, Namibia, S.W. Africa.

SCI $$$

One of the actions recently approved by the SCI Board of Directors was the granting of $21,000 to finance studies on two species now protected under the Endangered Species Act.

Many SCI members who have hunted Africa, Mexico, and Central and South America believe the jaguar and Nile crocodile are incorrectly listed as endangered species, and, in fact, many SCI members are legally hunting them in several countries. However, the U.S. Fish and Wildlife Service continues to list the animals as endangered species and prohibits hunters from importing any part of the trophy animal.

The SCI Executive Committee has indicated that if adequate research proves these animals are incorrectly listed, then SCI will seek a status change allowing U.S. sport hunters to once again import their legally taken trophies.

The National Fish and Wildlife Foundation received $20,000 of that amount for research on early the status of the jaguar in North and South America. Another $1,000 was authorized to help negotiations in Zimbabwe for a study of crocodiles in southern Africa.

Tom McMillan of the Fish & Wildlife Foundation has accepted the position, and Dr. Wendell Swank of Texas A&M University and Dr. James G. Teer of the Welder Wildlife Foundation have been contracted to conduct the jaguar study. This is the same respected team of wildlife scientists the U.S. Fish and Wildlife Service hired to confirm SCI's previously financed studies that led to the reclassification of African elephants.

Attachment # 8.

T. N. Gianoutsos
5621 N. 23rd St.
Arlington, VA 22205

Mr. David Packard
Mr. William A. Molini
Mrs. Beatrice C. Pickens
Mr. John F. Bookout
Mr. Michael H. Shlaudeman
Members of the Board of Directors
National Fish and Wildlife Foundation
Washington, DC

March 1,1985

Dear Directors:

Congratulations on your recent appointments as Directors of the National Fish and Wildlife Foundation. It's an organization like no other. You are the first Directors of the first and only congressionally chartered wildlife conservation foundation in our history.

We want to help you in your important work in any way we can. We have a great interest in the Foundation. After all, we are, as you know, its founders! We therefore would like to meet with you as soon as possible to discuss the following issues:

1. The establishment within the Foundation of a restricted endowment account to be known as "THE THEODORE AND FRANCOISE TREFFEL-GIANOUTSOS WILDLIFE TRUST." This fund would be created with the [illegible] which we have already given and [illegible] an additional [illegible] of congressionally appropriated funds. The [illegible] would be used to purchase a 30-year Treasury Bill. The annual interest would be applied to the Service's programs dealing with 1. Hunter Education, Ethics, and Safety, and 2. Recovery of endangered raptors. The trust fund would also be the recipient of our active benefactor contributions [illegible] already [illegible] to make. The trust fund would also be the beneficiary of our estate (see enclosed letter from our attorneys to Secretary [illegible] concerning the gift of our estate to the Fish and Wildlife Service on [illegible]).

2. Three specific projects to be undertaken by the Foundation:
-- The "Endangered species foster parent program"
Our idea for this program is to use the Foundation as a mechanism to attract large donations from both corporations and wealthy individuals to provide long-term funding for endangered species recovery programs conducted by the Service, e.g. a corporate donor or individual could become the foster parent for the endangered species of their choice taken from the current FWS list for a donation of 1 million dollars (2 millions to be both foster father and foster mother!). The money would be placed in 30-year Treasury Bills, the annual interest would be applied to the recovery program for that species (it takes 20 to 30 years to recover a species). The donation could be in the form of cash, bonds, etc.. It would of course be tax-deductible and would provide for the corporate donor the added bonus of invaluable good publicity! The corporate donor could provide annual status report in its national advertising on the progress of its "foster" child. At the end of the 30-year term, the capital would revert to the general endowment fund of the Foundation. This program alone could bring in 100's of millions of dollars to the Foundation and

over time including principal and interest billions of dollars for the Service's programs.

-- The "Pledge your land for wildlife conservation program"
Under this program, the individual or corporate donor would provide to the Foundation conservation easements, development rights, etc., to their land while still retaining the beneficial interest to the land. The Foundation would thus become the mechanism for insuring the protection of wildlife on the land without expense as the expenses as well as the beneficial interest would be retained and borne by the owner. E.g. a timber company could give the development rights to its land to the Foundation, take a tax deduction and still plant and harvest its trees. The Foundation is in a unique position to attract these gifts because due to its congressional charter, it's the only conservation organization in America which can absolutely guarantee the tax deductibility of the gift to the donor. All other organizations, Nature Conservancy, Audubon, etc. must apply on a case by case basis to the IRS for a ruling. This takes much time and coststhousandsof dollars which must be borne by the organizations or the donor.

-- The "Life insurance for wildlife conservation program"
Under this program, individuals of modest means, such as ourselves, could greatly enhance their contribution to wildlife conservation by taking out a life insurance policy for benefit of the Foundation. This practice is well-known and well-accepted in the university, church, hospital environment. The individuals could further enhance their gift by further stipulating that the proceeds of the insurance be placed in 30-year Treasury bills with the interest to be applied to their favorite F&S program. As most of the money in our estate would be provided by life insurance, we have already done this and clearly serve as a role model for others to emulate. This program also has a potential for providing very large amounts of money to the Foundation.

-- The presentation to the Board of Directors of an autographed copy of the National Fish and Wildlife Foundation Act. It took us 3 months to gather the signatures of all 90 cosponsors on an authentic "red Line" copy of the Act. We have had it suitably framed and would like to present it to the Board of Directors to be kept by the Foundation as a historical document and to be displayed in its offices.

-- To discuss how our own personal fundraising efforts could be best coordinated with those officially undertaken by the Board.

Finally, for your perusal, we have enclosed a document entitled "History of the National Fish and Wildlife Foundation" which is a true and exact statement of the facts and events which led to the creation of the Foundation (enc.1). We have also enclosed other documents relative to the Foundation and our effort which brings us to our final point. Unpleasant though it may be, we all must confront and address this issue so that the Foundation can move forcefully towards its future unfettered by the past. As you will note in the enclosed letters, we have called upon G. Ray Arnett, Robert Jantzen, and Thomas McMillan to resign. We have not taken this action lightly. Unfortunately, it became necessary to do so. Their actions have clearly demonstrated that they have neither the courage nor the moral commitment to the public good to do what's right. The Foundation requires more than what they are willing to give. We hope they will resign and that it will not be necessary for you to remove them. We trust that you will do what's right, exercise your power, remove them and ask Secretary Hodel to fill the vacancies as soon as possible.

-3-

You will never know the joy that we feel seeing our dream of 2 years ago become a reality! That's why we are so looking forward to hearing from you very soon. The Foundation exists; what it now needs is nurturing, guidance, and a loving care from those who want to give. Let's work together and make it all that it can be!

Sincerely yours,

Theodore Giantoutsos Françoise Truffet Giantoutsos

Theodore and Françoise Giantoutsos

Enclosures

P.S. If you wish to talk with us, we may be reached at (703) 533-7[illegible] after [illegible].

JIM WRIGHT
TEXAS
MAJORITY LEADER

Attachment # 9a.

Congress of the United States
House of Representatives
Office of the Majority Leader
Washington, D.C. 20515

March 25, 1983

Mr. and Mrs. Theodore Giancutsos
5621 North 23rd Street
Arlington, Virginia 22205

Dear Ted and Francoise:

Thanks for dropping by the office the other day. Marshall has given me a full report on your extraordinary generosity in providing that your estate be given to the U.S. Fish and Wildlife Service to help provide America's magnificent fish and game resources.

Ted, this act on the part of you and Francoise is that of truly patriotic Americans who have a deep and abiding sense of responsibility to protect our country's bountiful gifts for future generations. I sincerely commend you for this.

If legislation is necessary to set up a foundation, I will be pleased to offer my assistance to the Speaker and others who are working with you.

Best wishes.

Sincerely,

Jim Wright

51-869 O—85——4

Attachment # 9.

LES AuCOIN
1st District, Oregon

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

November 29, 1983

President Ronald Reagan
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. President:

I am writing to encourage you to sign H.R. 2809, a bill which establishes a United States Fish and Wildlife Foundation, when it comes to your desk.

The legislation, which I co-sponsored when it was introduced last April, has passed the House and the Senate without controversy or opposition and has been returned to the House with some minor technical amendments. Final approval of the legislation is expected very early in the second session of the 98th Congress.

H.R. 2809 creates a non-profit foundation designed to receive and administer private donations, including real and or personal property, trusts, and securities in order to promote and assist the United States Fish and Wildlife Service. This bill provides a mechanism whereby individuals can donate not only their time and energy but equally valuable, tangible property of all kinds to aid the Fish and Wildlife Service in conserving our natural wealth.

This legislation would not have been written had it not been for the personal generosity of Ted and Francoise Gianoutsos. They, as private citizens, wanted to establish a trust for the benefit of the Fish and Wildlife Service with the proceeds being used to further the conservation of fish and wildlife resources. I believe they should be commended for their patriotism and generosity.

Mr. President, I urge you to give this matter your favorable consideration when it reaches your desk early next year.

With warmest personal regards,

Sincerely,

LES AuCOIN
Member of Congress

LA/se

bcc: Ted and Francoise Gianoutsos

2446 RAYBURN HOUSE OFFICE BUILDING, WASHINGTON, D.C. 20515 (202) 225-0855
1716 FEDERAL BUILDING, 1220 SW THIRD PORTLAND, OREGON 97204 (503) 221-2901, OREGON TOLL FREE LINE 1-800-452-1920

COMMITTEE ON AGRICULTURE
SUBCOMMITTEES
COTTON, RICE AND SUGAR
LIVESTOCK, DAIRY AND POULTRY
DOMESTIC MARKETING, CONSUMER RELATIONS AND NUTRITION

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS
SUBCOMMITTEES:
WATER AND POWER RESOURCES
OVERSIGHT AND INVESTIGATIONS

MAJORITY WHIP-AT-LARGE

DEMOCRATIC STEERING AND POLICY COMMITTEE

TONY COELHO
15th District California

Attachment # 9c

Congress of the United States
House of Representatives
Washington, D.C. 20515

WASHINGTON, D.C.
(202) 225-4540

DISTRICT OFFICES

Federal Building
1130 O Street, Room 1001
Fresno, California 93721
(209) 487-5004

Federal Building
415 West 18th Street
Merced, California 95340
(209) 383-4655

Federal Building
1125 I Street
Modesto, California 95354
(209) 527-1914

December 13, 1983

The Honorable Ronald Reagan
President of the United States
The White House
Washington, D.C. 20500

Dear Mr. President:

I would like to take this opportunity to bring to your attention the plight of two fine American citizens who feel that they have been treated unfairly by your Administration. Ted and Francoise Gianoutsos have recently written to you explaining their grievances with the Office of Personnel Management and the Department of the Interior.

While it is not proper for me to comment on their allegations, I must tell you that in my dealings with them I have always found them to be generous, highly motivated and patriotic citizens. Their dedication to preserving our wilderness is amply attested to in the substance of H.R. 2809 which unanimously passed the House on July 12th and S. 1271 which unanimously passed the Senate on November 2nd. The legislation which I support would establish a Fish and Wildlife Foundation enabling the Gianoutsoses to provide several million dollars to the U.S. Fish and Wildlife Service as a thirty year testamentary trust fund. Such generosity speaks well of their public spiritedness.

Mr. President, I would hope that your Administration would do all in its power to review their complaints and deal equitably with their situation.

Sincerely,

TONY COELHO
MEMBER OF CONGRESS

Attachment #9 d.

ROBERT T. STAFFORD, VT., CHAIRMAN
HOWARD H. BAKER, JR., TENN.
JOHN H. CHAFEE, R.I.
ALAN K. SIMPSON, WYO.
JAMES ABDNOR, S. DAK.
STEVE SYMMS, IDAHO
JENNINGS RANDOLPH, W. VA.
LLOYD BENTSEN, TEX.
QUENTIN N. BURDICK, N. DAK.
GARY HART, COLO.
DANIEL PATRICK MOYNIHAN, N.Y.
BAILEY GUARD, STAFF DIRECTOR
JOHN H. YAGO, JR., MINORITY STAFF DIRECTOR

United States Senate
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
WASHINGTON, D.C. 20510

May 12, 1983

Mr. Ted Gianoutsos
Dr. Francoise Gianoutsos
5621 North 23rd Street
Arlington, Virginia 22205

Dear Mr. and Dr. Gianoutsos:

On Thursday, May 19, 1983, the Senate Subcommittee on Environmental Pollution will hold a hearing on a number of measures relating to the U.S. Fish and Wildlife Service. Among the bills to be considered is S.1271, legislation to establish the "United States Fish and Wildlife Foundation". Your testimony at the hearing would be both helpful and appreciated.

Certainly full credit for bringing S.1271 before the Subcommittee should go to you. We are grateful to you for providing the idea, hard work, and initial funding to establish the Foundation, and join with you in hoping that it will increase opportunities for private citizens to contribute to fish and wildlife conservation.

The hearing will begin at 10:00 a.m. in Dirksen Senate Office Building room SD406. We would appreciate receiving fifty copies of your testimony forty-eight hours prior to the hearing.

We look forward to having you as witnesses.

Sincerely,

John Chafee

John H. Chafee
United States Senator

EDWARD M. KENNEDY
MASSACHUSETTS

Attachment #9 e

United States Senate

WASHINGTON, D.C. 20510

May 24, 1983

Theodore Gianoutsos
Francoise Gianoutsos
5621 North 23rd Street
Arlington, VA 22205

Dear Mr. & Mrs. Gianoutsos:

I am writing to express my deep appreciation for your generous donation to the Fish & Wildlife Foundation and your deep commitment to this legislation.

Enclosed please find a copy of your Statement which was submitted for the Record.

Warm best wishes,

Sincerely,

Edward M. Kennedy

S. 1271—NATIONAL FISH AND WILDLIFE FOUNDATION

Mr. KENNEDY. Mr. President, I am extremely pleased to cosponsor S. 1271 to establish the National Fish and Wildlife Foundation. This legislation is endorsed by the National Wildlife Federation and would provide a mechanism to encourage citizen participation in the conservation and management of our fish and wildlife resources.

Two of the supporters of this legislation, Theodore Gianoutsos and Francoise Gianoutsos, have pledged their support for this foundation. In their eloquent testimony today before the Subcommittee on Environmental Pollution, Mr. and Mrs. Gianoutsos quoted President Kennedy, "Ask not what your country can do for you, but what you can do for your country." Truly, their generosity exemplifies precisely what President Kennedy hoped to encourage.

This legislation is in the highest tradition of American democracy and our concern for the preservation of the environment. I am proud to support it and proud of the Gianoutsos family and their desire to share with others of this country an activity that has brought so much joy into their own lives.

Mr. President, I ask unanimous consent that today's testimony by Mr. and Mrs. Gianoutsos may be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

TESTIMONY OF THEODORE AND FRANCOISE GIANOUTSOS IN SUPPORT OF LEGISLATION TO ESTABLISH THE U.S. FISH AND WILDLIFE FOUNDATION

Mr. Chairman and members of the committee, it is great honor and privilege for us to be here today to testify in behalf of your recently introduced legislation to establish a United States Fish and Wildlife Foundation. We would like to briefly describe, to you and the committee, our interest in seeing such a foundation created.

We share the immigrant's love for America, principally because Ted's parents are Greek immigrants to America and Francoise herself is an immigrant from France. Over the past 20 years of our marriage, we have often remarked at how fortunate we are to be able to enjoy the many benefits and opportunities which our country affords us. As we have matured we have come to realize that with those benefits and opportunities come responsibilities and there comes a time when one should, in President Kennedy's words, "ask not what your country can do for you, but what you can do for your country". In truth, America has been very good to us. We had the opportunity to earn several university degrees, thanks in large part to Government loans and grants of one type or another. We have prospered and live a relatively very comfortable life. Many times over the past several years we have asked ourselves what can we do to help our country. Several events of 1982 crystallized our thoughts and motivated us to act. We suffered two deaths in the family, (Francoises' mother and great-uncle passed on, closely following the death of her father, who died 3 years ago), our brother-in-law, only 7 years older than we, suffered a massive heart attack, and finally, we were run off the road at high speed by an ongoing truck and were brought face to face with our own mortality. Realizing that the remaining members of our family were relatively well-off and have no children we focused our attention on our estate.

Mr. Chairman, our greatest pleasure in life is to be out in the woods and fields. We are both avid outdoor people and particularly enjoy hunting, fishing, and training bird dogs, currently two labradors. We spend every spare moment dog training or hunting or fishing or photographing wildlife or walking in the woods or just lying in some field watching the grass grow. Fish and wildlife conservation is therefore the area in which we have chosen to make our modest contribution. We became aware of the Department of the Interior's mission and especially that of the Fish and Wildlife Service through Ted's association with Interior over the last 5 years. We have developed a great respect and affection for the Department of the Interior, and the more we learned about the Fish and Wildlife Service's programs, the more we became convinced we could and should help.

In January of this year, we asked our friend and attorney, Pat O'Connor, of O'Connor & Hannan to help us redraft our wills and establish a 30-year testamentary trust for the benefit of the U.S. Fish and Wildlife Service. Our wish is to have the bulk of our estate invested in 30-year U.S. Treasury securities with the interest to be annually given to the service for use in their programs of hunter education, ethics, and safety and recovery of endangered species, particularly raptors. At the end of the 30 years, the principal would also be given to the service and thus over the course of 30 years several million dollars would be made available for these important programs.

During the course of meeting at Interior with our attorneys, Interior attorney and program people, it became apparent that although Interior and the Service had gift authority, no mechanism existed, other than the national Park Foundation (which can only by law benefit park service programs), for the reception and administration of a multiyear grant or trust. We realized that we had inadvertently been presented with an opportunity to be of more immediate use to the Fish and Wildlife Service by acting as the catalysts for the creation of a U.S. Fish and Wildlife Foundation. We decided to meet the challenge and assume the responsibilities of championing the foundation's cause. We have been enthusiastically and warmly supported and encouraged by many professionals with the Fish and Wildlife Service and especially by Director Jantzen and Assistant Secretary Arnett. There was no need to search very far for someone to introduce such legislation in the Senate. Mr. Chairman, you were the natural choice. Your enthusiastic response and the most generous contribution of your time and efforts, and that of your staff to draft, introduce, and hold hearings on this legislation are greatly appreciated by us and will not be forgotten. We thank you for being so accessible and so willing to help.

This foundation can and should be a focal point for those citizens and organizations who want to help the service in its important work. Indeed if the foundation had existed when Duport made its generous multiyear grant to the service for the eagle recovery program, two-thirds of the grant could have been invested to earn interest and this interest would have increased the grant and would therefore have benefited the eagle program that much more. The foundation would also allow individuals to become involved in a sustaining and ongoing manner, through some sort of associates program, with fish and wildlife programs. In this regard we would welcome the opportunity to participate in such a program and would look forward to making a grant, of several thousand dollars each year, to the foundation for use in fish and wildlife programs. Additionally, in order to see the foundation started on a sound financial footing we have already made available a $5,000 check, entrusted to the care of the Secretary of the Interior until the foundation is established, to be used as seed money. We hope that other citizens will join us in providing seed money, grants or requests to the foundation so that it may thrive and foster cooperation between the private and public sectors and citizens and their Government and thus carry out together the important work of conservation of the fish and wildlife resources of America.

In closing, Mr. Chairman, we would like to take this opportunity to thank all those who have demonstrated an interest in this legislation and helped us in our commitment to it, especially Pat O'Connor and Brian Phelan of O'Connor & Hannan, Brian Cole and Russ Fielding of the U.S. Fish and Wildlife Service, Steve Shimberg and Martha Pope on the subcommittee staff, and of course our many friends in the Senate who have agreed so enthusiastically to support and cosponsor this legislation. We also wish to take this opportunity to once again thank all of our friends in the House where this legislatin was first introduced as H.R. 2809 on April 28, by John Breaux chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Committee on Merchant Marine and Fisheries. H.R. 2809 has wide bipartisan support and is cosponsored by more than 40 Members. We sincerely thank all of you for your help and encouragement.

WILLIAM D. FORD
15th District, Michigan

239 Cannon House Office Building
Washington, D.C. 20515
(202) 225-6261

District offices:
Federal Building
Wayne, Michigan 48184
(313) 722-1431

20155 Goddard Road
Taylor, Michigan 48180
(313) 282-4900

Congress of the United States
House of Representatives
Washington, D.C.

July 18, 1983

Attachment #9 f.

Mr. and Mrs. Thedore Gianoutsos
5621 North 23rd Street
Arlington, Virginia 22205

Dear Francoise and Ted:

Just a note to congratulate you on H.R. 2809. I was pleased to co-sponsor this measure and am glad it passed the House with such ease. Nancy mentioned that you phoned and I hope you will keep us up to date on the Senate action.

With kind regards, I am

Sincerely yours,

Bill Ford

WILLIAM D. FORD
Member of Congress

WDF:nbl

CHAIRMAN
COMMITTEE ON POST OFFICE AND CIVIL SERVICE

COMMITTEE ON EDUCATION AND LABOR

SUBCOMMITTEES:
ELEMENTARY, SECONDARY AND VOCATIONAL EDUCATION
POSTSECONDARY EDUCATION
LABOR MANAGEMENT RELATIONS

PATRICIA SCHROEDER
First District, Denver, Colorado

District office:
1767 High Street
Denver, Colorado 80218
(303) 837-2354

Washington office:
2400 Rayburn House Office Building
Washington, D.C. 20515
(202) 225-4431

ARMED SERVICES COMMITTEE
POST OFFICE AND CIVIL SERVICE COMMITTEE
JUDICIARY

Congress of the United States
House of Representatives
Washington, D.C. 20515

Attachment #9 g.

March 23, 1983

Ted & Francoise:

Thank you for visiting with me on your Fish & Wildlife Foundation. It is a very fine idea. I would be more than happy to help out in any way that would be useful.

Pat

Attachment #9 h.

FISH AND WILDLIFE FOUNDATION

HON. JOHN B. BREAUX

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. BREAUX. Mr. Speaker, I have today introduced, along with a number of cosponsors, legislation to establish a Fish and Wildlife Foundation. The impetus for this legislation is the generosity of Ted Gianoutsos, an employee of the Department of the Interior, and his wife, Francoise, who have offered to provide the initial funding to establish the foundation.

The legislation is modeled after similar legislation for the Park Service Foundation and would establish a charitable and nonprofit corporation which accepts and administers gifts from private citizens for the purposes of fish and wildlife conservation.

The foundation would have a board of nine members, all appointed by the Secretary of the Interior, who would serve 6-year terms. The terms of the initial board are to be staggered and the legislation requires that the board represent diverse points of view relating to fish and wildlife conservation. At least three of the members must be educated and experienced in the principles of fish and wildlife conservation.

Mr. Speaker, I hope this legislation will encourage citizens participation in our wildlife conservation programs. The responsibilities of the Fish and Wildlife Service are great and, like most agencies, they face tight budget requirements. Wildlife habitat acquisition, public education about wildlife, endangered species recovery, hunter ethics, and a number of other programs enjoy broad public support but limited funding.

The foundation will provide a means for those concerned with wildlife conservation to lend a hand in a direct and meaningful way. I urge my colleagues to join me in supporting this legislation ●

U.S. FISH AND WILDLIFE FOUNDATION

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mrs. SCHROEDER. Mr. Speaker, I want to commend Ted and Francoise Gianoutsos for their generosity and patriotism. They have offered to leave a bequest to the U.S. Government in order to help establish a fish and wildlife foundation at the Department of Interior. The foundation would be similar to the current Park Service Foundation.

The Gianoutsos' offer is another example of the American tradition of philanthropy that has so blessed this country. Recall that a bequest in 1829 from James Smithson helped establish the Smithsonian Institute.

There is another parallel here. Smithson was an Englishman. Ted Gianoutsos is a first generation Greek-American and Francoise is an immigrant from France.

The legislation, H.R. 2809, which has been introduced by Representative JOHN BREAUX (Democrat, Louisiana), and which I am proud to have cosponsored, would establish a charitable and nonprofit corporation to accept and administer gifts from private citizens for the purposes of fish and wildlife conservation.

I urge my colleagues to cosponsor this very worthwhile proposal ●

U.S. FISH AND WILDLIFE FOUNDATION

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr AuCOIN. Mr. Speaker, I rise today in support of the bill sponsored by our colleague from Louisiana, the Honorable JOHN BREAUX. The bill establishes a U.S. Fish and Wildlife Foundation for the purposes of promoting fish and wildlife conservation. This Foundation would aid such fish and wildlife programs as hunter education, ethics, and safety and recovery of endangered species. This bill has broad, bipartisan support and has been warmly endorsed by the Interior Department.

All of us owe a debt of gratitude to Ted and Francoise Gianoutsos, the guiding lights behind this legislation. It is through their generosity and patriotism that a Fish and Wildlife Foundation is possible.

I hope my colleagues will join Mr. BREAUX, myself and others in supporting this very worthwhile legislation ●

H.R. 2809—U.S. FISH AND WILDLIFE FOUNDATION ESTABLISHMENT ACT

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1983

● Mr. LONG of Maryland. Mr. Speaker, I am delighted to join my colleague Representative JOHN BREAUX in sponsoring H.R. 2809, the U.S. Fish and Wildlife Foundation Establishment Act. I commend the members of the Merchant Marine and Fisheries Committee for approving this bill so expeditiously.

The purpose of H.R. 2809 is simple. To provide an opportunity for the American public—concerned citizens, corporations, private organizations and foundations—to support our fish and wildlife conservation programs. This bill was inspired by Theodore and Francoise Gianoutsos, two avid outdoor people, who generally sought to contribute their financial resources to enhance the programs of the Fish and Wildlife Service but found that there was no vehicle to do so.

Modeled on the existing, successful, National Park Foundation, this legislation establishes a charitable and nonprofit corporation which encourages, accepts, and administers private gifts to foster of fish and wildlife resources. It will provide a means for those concerned with protecting endangered species, promoting public education about wildlife, preserving wildlife habitat and other wildlife conservation programs to help in a meaningful way.

At a time when the U.S. Fish and Wildlife Service in facing increased responsibilities with growing budgetary constraints, the creation of a Fish and Wildlife Foundation is surely needed. I urge my colleagues to join me in supporting this legislation when it comes to the House floor for a vote ●

Attachment #9 i.

H.R. 2809. U.S. FISH AND WILDLIFE FOUNDATION

SPEECH OF

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 12, 1983

● Mr. CONTE. Mr. Speaker, I rise in support of H.R. 2809, a bill to establish a U.S. Fish and Wildlife Foundation.

Let me take this opportunity to commend the leadership of Chairman BREAUX and members of the Merchant Marine Subcommittee on Fisheries and Wildlife Conservation for their expeditious work in bringing this legislation to the floor of the House.

As a member of the Migratory Bird Conservation Commission—and an avid sportsman myself, I applaud this effort—an excellent example of private sector initiative—to promote fish and wildlife conservation. The U.S. Fish and Wildlife Foundation, established in this legislation, would be authorized to accept and solicit gifts or bequests in any form and to acquire land for conservation purposes. The foundation would not be considered an agency or establishment of the U.S. Government. Similar to the National Park Service Foundation, this quasi-public organization would be a non-profit, charitable corporation with tax exempt status.

As many members know, the concept of private gifts to the Government is not original to this legislation. This approach, however, does exemplify what many refer to as the private sector initiative. The motivation for such a foundation was not the result of a bureaucratic memo from the Department of Interior nor the executive branch reorganization scheme. The initiative came from the private sector—from an individual who wanted to donate a large sum of money for the preservation of fish and wildlife in this country.

The present law governing the donation of gifts to the U.S. Fish and Wildlife Service is unclear and incomplete. H.R. 2809 would allow individuals or groups to donate land, money or other resources to the Wildlife Service for the purpose of fish and wildlife conservation. With the public sector spending expanding at a constant rate, initiatives from the private sector—such as the Fish and Wildlife Foundation—are a welcome relief and should be accepted gratefully.

I urge my colleagues to support passage of H.R. 2809 under suspension of the House rules.●

S. 1271—UNITED STATES FISH AND WILDLIFE FOUNDATION

● Mr. RANDOLPH. Mr. President, I am pleased to cosponsor legislation being introduced to establish the U.S. Fish and Wildlife Foundation. The Foundation will provide additional opportunities for private citizens to participate in the conservation of our fish and wildlife resources.

It is private citizens, Ted and Francoise Gianoutsos, who have provided the impetus for the Foundation. The Gianoutsos' greatest pleasure in life, in their words, "is to be out in the woods and fields." As avid outdoors people, they particularly enjoy fishing and hunting and want to contribute to fish and wildlife conservation. Through their interest and generosity a trust will be created to enhance programs at the Fish and Wildlife Service. Should a Fish and Wildlife Foundation be established by Congress, the trust will terminate with its proceeds given to the Foundation. It is this Foundation that will be created by the legislation being introduced today.

For many years I have served as a trustee of the Claude Worthington Benedum Foundation. From that vantage point, I have seen what can be accomplished when the generosity of individuals is shared with others. Through the Benedum Foundation we have channeled millions of dollars into worthwhile activities in many communities to their benefit and that of thousands of individual citizens.

My personal and very positive experience with Foundations makes me especially appreciative of the Gianoutsos' efforts. I know my colleagues will want to join in thanking them for their dedication to fish and wildlife conservation.●

● Mr. MITCHELL. Mr. President, today I am very pleased to cosponsor legislation to establish the National Fish and Wildlife Foundation. The Foundation will increase opportunities for private citizens to contribute to fish and wildlife conservation.

Appropriately, the idea, hard work, and initial funding provided to establish the foundation has come from dedicated private citizens. Ted and Francoise Gianoutsos are avid outdoors people who wish to contribute to the programs of the U.S. Fish and Wildlife Service. Through their generosity, a trust will be established to enhance programs at the Service that are dedicated to hunter education and ethics, and to the conservation of raptors—birds of prey. They have stipulated that should a Fish and Wildlife Foundation be established by an act of Congress, their trust shall terminate and the proceeds shall be given to the Foundation. It is just such a foundation that we have the opportunity to institute here today.

This legislation is modeled after similar legislation for the Park Service Foundation and would establish a charitable and nonprofit corporation which accepts and administers gifts from private citizens for purposes of fish and wildlife conservation. The Foundation would have a board of nine members to be appointed by the Secretary of the Interior. Members of the board must represent diverse points of view in relation to wildlife conservation and at least three members must be educated and experienced in the principles of fish and wildlife management. The legislation authorizes $1 million to be expended over a 10-year period to match, on a 1-to-1 basis, private contributions to the Foundation. Use of these matching funds and additional private contributions are not restricted to hunter or raptor programs and may be used for other appropriate fish and wildlife conservation activities.

Mr. President, the legislation we are introducing today is an important initiative in fish and wildlife conservation. I join the Gianoutsos in hoping that the Foundation will be a focal point for those citizens and organizations who want to help the Fish and Wildlife Service in its important work. I know that my colleagues will want to join me in thanking the Gianoutsos for their contribution to this effort.●

Attachment # 9 J.

IWLA NEWS

REPORTING IWLA DEVELOPMENTS AROUND THE NATION

League Members Champion Fish and Wildlife Foundation

Two members of the League's Bethesda-Chevy Chase, Md., chapter have made an unusual and generous gift to America's fish and wildlife. Ted and Francoise Gianoutsos have earmarked the bulk of their estate for endangered species recovery and hunter education programs of the U.S. Fish and Wildlife Service.

"We decided to put our money where our mouth is," said Francoise. Both are avid outdoors people who enjoy hunting, fishing and training bird dogs—currently two black labrador retrievers. "Our greatest pleasure in life is to be out in the woods and fields," she said. Since the couple is childless and other members of the family are relatively well-off, the Gianoutsos decided to use their assets to aid the work of the Service.

In the process of working out the details of their bequest, the Gianoutsos recognized that no mechanism existed for administration of a multi-year grant to the agency. Currently, the FWS is allowed to accept only single-year gifts, receiving about $350,000 a year in that form. To allow for management and investment of multi-year bequests, and to make it easier for others to donate money or land to the Fish and Wildlife Service, the Gianoutsos are working with Congress, the League and the agency to establish a Fish and Wildlife Foundation. The foundation is inspired by the National Park Foundation—a private organization empowered to manage and invest funds for National Park Service projects. The NPF channels some [redacted] a year into the park system.

Ted Gianoutsos gives a dog training demonstration during a hunter safety clinic at the chapter property (right). Francoise relaxes with the dogs during a break.

A policy resolution supporting legislation to create a Fish and Wildlife Foundation is expected to be submitted to the League's membership for consideration at the annual convention in July. "There can be little question of the need for this legislation," IWLA Executive Director Jack Lorenz wrote in support of a bill that has been introduced in Congress to establish the foundation. "Although fish and wildlife values enjoy broad public support, federal investments in fish and wildlife conservation have not kept pace. The proposed foundation will provide a focal point and a stimulus for expanded private contributions."

Photos by Millard Sharp

And for the Gianoutsos, the foundation is also a way of expressing their gratitude for the access to natural resources and other advantages they've found in this country. "We share the immigrants' love for America, principally because Ted's parents are Greek immigrants and Francoise is an immigrant from France," the Gianoutsos said in testimony before Congress on the foundation bill. Both Ted and Francoise earned several degrees and went on to assume responsible government jobs—Ted in the Interior Dept. and Francoise in the Office of Personnel Management. "Many times over the past several years we have asked ourselves what we can do to repay our country," they said.

Helping protect America's unique wildlife resources was their answer.

—C.D.

Attachment #9 K.

Conservation Update

Volume 3 Number 4 May 1984

National Fish and Wildlife Foundation Signed into Law

On March 26, the President signed into law a bill to establish a National Fish and Wildlife Foundation. The foundation was conceived by IWLA members Ted and Francoise Gianoutsos, avid hunters who are deeply committed to wildlife conservation.

The idea for the foundation began when the Gianoutsos' decided to name the U.S. Fish and Wildlife Service as beneficiaries of their multi-million-dollar estate, but discovered that FWS was unable to accept multi-year gifts. That meant that the Service could not reap the benefits of investing monies donated for more than a single year's purpose. Under the new law, the foundation can invest donations in interest-bearing accounts and use the income to support the programs of the Fish and Wildlife Service or other activities to conserve the fish, wildlife and plant resources of the United States.

Conservation Update

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OUTDOOR NEWS BULLETIN

Issued bi-weekly by the

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LONNIE L. WILLIAMSON, EDITOR

Volume 39 February 8, 1985 Number 3

Attachment # 9L.

Contents:

	Page
OMB Grabs For D-J Money	1
Public Land Swap Proposed	2
FWS Seeks Volunteers	2
Recreation Commission Established	3
Southeastern Meeting Set	3
Senators Want ADC In Agriculture	4
New Conservation Directory Published	4
TVA Wildlife Program Endangered	5
Fish And Wildlife Foundation Staffed	5

Fish And Wildlife Foundation Staffed:

Seven directors for the newly-formed National Fish and Wildlife Foundation have been named, according to the Wildlife Management Institute.

The Foundation, conceived and promoted by Ted and Francoise Gianoutsos of Arlington, VA, was created by Congress last year. It was established to accept donations of money and property on behalf of the U.S. Fish and Wildlife Service and support the wildlife conservation activities of that agency.

The Foundation is supposed to have nine directors, but only seven have been named. They are: Thomas McMillan of Reno, NV; David Packard of Palo Alto, CA; William Molini of Sparks, NV; Ray Arnett of Arlington, VA; Mrs. Beatrice Pickens of Amarillo, TX; John F. Bookout of Houston, TX; and Michael Shlaudeman of Altadena, CA.

conservation facts

Attachment # 9m.

by PAUL HANSEN, Natural Resources & Conservation Editor

The Gift of the Century — A Fish and Wildlife Service Foundation

Ted and Francoise Gianoutsos had a dream. They wanted to leave their entire estate, in millions of dollars, to the Fish and Wildlife Service to fund programs for the enhancement and support of wildlife and fisheries programs. Ironically, before their dream came true, they both lost their government jobs (Ted's was in the Interior Department), they were allegedly insulted and slandered by former Interior Secretary James Watt, but they received the unprecedented support of every member of both Houses of Congress for their proposal to start a Fish and Wildlife Service Foundation.

The dream started a few years ago. It had been a critical time in their lives when they had lost several close relatives, one special friend, and had almost been killed themselves in an automobile accident. Ted and Francoise felt that they had benefited tremendously from our American society. "Many times over the past several years we asked ourselves what we could do to repay our country," they said. "We decided to put our money where our mouths are."

The outdoors is a way of life for this couple. Although they do a little fishing, they are most avid about bird hunting. When I visited them right after Francoise got her first turkey, Ted explained the reason for their unusual bequest: "We share the immigrants' love for America, principally because my parents are Greek immigrants and Francoise is an immigrant from France." Ted is a Vietnam era veteran.

When they looked for a way to give their estate to the Fish and Wildlife Service, they discovered that it was impossible. Amazingly, no mechanism existed for the administration of a multi-year grant to the agency. Currently, the FWS can only accept one-year gifts which must be used before the end of the year. FWS gets about $350,000 a year in this way, but the Gianoutsos' bequest is by far the largest in history. However, giving money to the government for use in one year is wasteful and inefficient, so the Gianoutsos, both efficiency experts, worked with members of Congress, and others, to establish the Fish and Wildlife Service Foundation.

The Foundation will be similar to the NPF (National Park Foundation), a private organization empowered to manage and invest funds for National Park Service Projects. The NPF allows for the management and investment of multi-year bequests and makes it easier to donate money or land—all reasons why the NPF directs over [redacted] million per year into national park projects. It is no wonder that decision-makers in Washington, who ordinarily cannot even agree on the colors of the flag, all agreed that the formation of a Fish and Wildlife Service Foundation was an excellent idea . . . with one exception.

The exception, of course, was James Watt. Besides being members of most of the conservation organizations, the National Rifle Association, and other groups, the Gianoutsos are registered Democrats. They believe that in James Watt's view of the world, that made them the enemy. After ignoring the Gianoutsos for months by not recognizing their bequest with even a note or telephone call (during which time he gave a big public ceremony for a mining company that gave back a mere $1/2 million in unused mineral leases), Watt finally agreed to see them.

Ted and Francoise say that they truthfully thought, due to Watt's reported, deep Christian beliefs, that he was honest and decent and would act appropriately when they had a chance to share their point of view. They were wrong. "From the first moment there was sheer hostility on Watt's part. We were there to give our whole life's estate, and he stood there, actually shaking his finger at us, while he slandered and insulted our efforts. He is far worse in his outright arrogance and hatred than anyone imagines. We did not see any Christianity at all. He is so anti-government."

Although the President continues to praise him publicly, Watt is gone now. However, many of his lieutenants and policies remain. The Fish and Wildlife Service Foundation is in the final stages of approval by the U.S. Congress, and the Gianoutsos' bequest will be its first. Votes on the bill in both houses of Congress were unanimous, in spite of Watt's opposition.

Credit: Millard Sharp

Ted Gianoutsos training one of his black labs near his home in Virginia. The Gianoutsos' personal bequest to the Fish and Wildlife Service is the largest in our nation's history.

On September 7, 1983, Ted was locked out of his office and on October 6th, he was officially removed from his post as budget analyst in the Interior Department. The dismissal is due to a controversy around a report he wrote two years ago, alleging waste, fraud, mismanagement and abuse in the operation of construction management in the Interior Department. Whistle blowers are protected by law in our government, and no one in living memory has ever been removed in this way. In fact, both Ted and Francoise are certain that the firing was illegal. They say that for months before Ted was actually removed, he was approached by all sorts of Watt Interior officials with a smorgasbord of deals, including a promotion. Ted refused them all. Several Congressmen, including Republican Majority Leader Howard Baker and Democratic Representative Les Aucoin, have called for an investigation.

Ted and Francoise have had a lot of time to bird hunt this fall with their two black labradors. They are convinced that the Watt legacy is one of massive corruption and prohibitive personnel policies. This American, for one, thanks them for their determination and perseverance in trying to contribute to our Fish and Wildlife heritage. I would be glad to forward them your thanks, too. □

TUESDAY, April 24, 1984 UNITED Feature Syndicate

JACK ANDERSON

Attachment # 9 n.

WASHINGTON MERRY-GO-ROUND

U.S. intelligence trying to close 'voodoo gap' with Soviets

By JACK ANDERSON

WASHINGTON — In past columns, I have reported on secret projects to adapt psychic phenomena to military purposes. For example, in laboratory experiments, psychics have been used to spy on the Soviets by projecting their minds outside their bodies.

One psychic was able to describe a secret Soviet base — in astonishing detail that was later confirmed by satellite photographs. Another located a Soviet Tu-95 "Backfire" bomber that had crashed in Africa.

CITIZENS WATCH. When Ted and Francoise Gianoutsos of Arlington, Va., decided to donate some of their savings to the Fish and Wildlife Service for long-term conservation programs, they were surprised to learn that the agency had no authority to accept money to be used over a period of several years. The law required donations to be spent within the same fiscal year.

So the Gianoutsoses set out to have the law changed. Their efforts were the impetus for legislation establishing a Fish and Wildlife Foundation, a non-profit corporation that will accept and administer gifts for the conservation of fish, wildlife and plant resources, including educational programs and protection of endangered species. During the foundation's first 10 years, the Interior Department will provide up to $1 million in matching funds.

The Gianoutsoses started the ball rolling with a $5,000 donation, and plan to give money each year. They have also set up a testamentary trust fund that should make available several million dollars to the fund when they die.

The foundation bill passed both houses of Congress unanimously and was signed by President Reagan on March 26 despite his expressed "serious reservations." Actually, the chief opposition to their idea came from then-Secretary of the Interior James Watt. (The Gianoutsoses suspect this was because they are both outspoken Democrats.)

Avid nature lovers, the Gianoutsoses feel their efforts were a good way to give back something to the country that has given them so many opportunities. Ted is the son of Greek immigrants and Francoise gave up her French citizenship to become an American.

Attachment # 9o.

AUGUST 1985 VOL 196 NO 2

SPORTS AFIELD

Established in 1887

REPORTS AFIELD

Conservation and Outdoor News/Edited by Kit Harrison

Canada Issues First Duck Stamp

In early August, the Canadian Postal Service will issue the first Canadian Habitat Conservation Stamp. The stamp, which must be purchased by all waterfowl hunters in Canada, is the equivalent of the U.S. Migratory Waterfowl Stamp, better known as the Duck Stamp.

The Canadian stamp features a pair of mallards painted by internationally respected wildlife artist Robert Bateman.

America, Canada Sign Salmon Treaty

The United States and Canada have signed an ambitious new pact to cooperate in managing West Coast salmon, but "the work is just beginning," said Billie Frank, chairman of the Northwest Indian Fisheries Commission and a leading advocate of the treaty. "More than ever, we must understand each other's viewpoint."

The treaty, which took more than a decade to negotiate, nearly foundered several times over disagreements between U.S. fishing groups. But in the end, most hailed it as a crucial tool for conserving shared salmon stocks up and down the West Coast.

The treaty restricts the two nations' harvest of one another's fish and curbs the total catch of dwindling chinook and coho salmon stocks. It also establishes the Pacific Salmon Commission, the first management authority empowered to govern fishing throughout the salmon's coastal migratory range.

If all goes well, the United States and Canada will release more than $400 million previously allocated for salmon breeding and habitat enhancement. That money has been bottled up for years because each nation feared the other would reap the benefits of its investment. —Brad Warren

Mallard, Pintail Limits May Be Cut

The 1984 population levels of mallards and pintails were about the lowest in 30 years. The numbers of these two species have dropped significantly during the last few years, primarily as a result of several successive years of drought in the vital duck nesting areas of the Canadian prairie, as well as habitat loss. Because of this, the U.S. Fish and Wildlife Service (FWS) is considering a decrease in this fall's harvest of the two species.

The FWS contemplated reducing the allowable harvest during the 1984-85 season, but instead stuck with its five-year study of "stabilized" regulations, a cooperative project between the United States and Canada to study the relationship between duck populations and duck harvests. The 1984-85 duck harvest was the last season under the program of stabilized regulations, though a final evaluation of the project will not be available until sometime in 1986. This means that the duck hunting regulations for the 1985-86 season will have to be formulated without the benefit of a full analysis of the study.

Bay Shellfish Reach Brink of Disaster

Researchers at the McCollum-Pratt Institute and Johns Hopkins University have revealed a potentially catastrophic condition in the northern Chesapeake Bay that may have disastrous consequences for the bay's marine life, especially shellfish.

Last year, climatic conditions combined to create a severe condition of anoxia, or lack of oxygen, in the bay's waters below a depth of 16 feet. Anoxia "occurs annually in summer in the Chesapeake Bay," say the researchers, H.H. Steiler, J.A. Boggs and W.H. Biggley. The magnitudes and areas involved, however, have increased over the past decades.

In 1984, the dissolved oxygen content in bottom waters decreased to zero more than two months earlier than in previous wet years, they reported.

A survey last September of oyster beds in the Choptank River revealed mortality of all the shellfish on beds more than 20 feet under the surface.

States Impose New Nontoxic Shot Zones

Millions of ducks, geese and other birds, including bald eagles, die from lead poisoning each year after ingesting spent lead shot.

To stop this waste, state wildlife agencies are imposing nontoxic shot zones where hunters may use only steel shot. Recently, Nebraska and Iowa passed statewide bans on lead shot for certain kinds of hunting. Kansas is phasing in a statewide ban, and other states are broadening their steel shot zones.

Most sportsmen seem supportive of the new rules. In the past five years, there's been "a big turnaround" in hunters' opinions about steel shot, as they recognize the seriousness of the lead poisoning problem in waterfowl and as misinformation about steel shot and its effects is dispelled, says Allen Farris, Iowa's Fish and Game chief. —Chris Wille

Other States Get Indiana Steelhead

Indiana's critical brood stock of Skamania, an acrobatic, tough type of steelhead, yielded more than a million healthy eggs early this spring. This enabled Indiana Department of Natural Resources officials to spread the much-desired strain more widely throughout the Great Lakes.

Last August, Wisconsin and Michigan received about 500 breeding fish from Indiana. Survival was excellent, and egg-takings yielded about 4500 eggs per female. —Al Spiers

Congress Approves Wildlife Foundation

Early this year, Congress established the National Fish and Wildlife Foundation. The foundation is a charitable, nonprofit corporation to encourage and administer donations of real or personal property in connection with U.S. Fish and Wildlife Service conservation programs.

However, U.S. Fish and Wildlife Service spokesmen apparently deliberately failed to report that the foundation was conceived and passed into law through the efforts of two federal government employees: Theodore Gianourtsos of the Department of Interior and his wife, Francine, of the Office of Personnel Management. The couple made the first donation to the foundation with a check for $5000, and rewrote their wills so that their entire estate will eventually go to the FWS. 20

Attachment # 10.

CODE OF ETHICS FOR GOVERNMENT SERVICE

Any Person In Government Service Should:

Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.

Uphold the Constitution, laws, and legal regulations of the United States and all governments therein and never be a party to their evasion.

Give a full day's labor for a full day's pay; giving to the performance of his duties his earnest effort and best thought.

Seek to find and employ more efficient and economical ways of getting tasks accomplished.

Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.

Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.

Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.

Expose corruption wherever discovered.

Uphold these principles, ever conscious that public office is a public trust.

(This Code of Ethics was agreed to by the House of Representatives and the Senate as House Concurrent Resolution 175 in the Second Session of the 85th Congress. The Code applies to all Government Employees and Office Holders.)

CSC FORM 72:
AUGUST 1962

Mr. GIANOUTSOS. Senator McClure, I just wish to add that I wish to thank you and especially Jim Beirne for allowing us to come before you today and not, as happened with, unfortunately, the other committee last night. We received two calls yesterday afternoon threatening us not to appear in front of the Environment and Public Works or this committee for that matter by Bill Hurley.

And that type of behavior just again typifies what we have said in our statement. Senator, that has no place.

The CHAIRMAN. Well, I assure you that your request was honored to come before this committee and make your statement.

Mrs. GIANOUTSOS. We appreciate it.

Mr. GIANOUTSOS. Yes, sir.

The CHAIRMAN. To the extent that it is pertinent to the Horn nomination, it will be considered by the committee. We will certainly ask Mr. Horn to explain the statement which Mr. Sanders attributes to him, as well as his role with respect to the enactment of the Foundation for the record.

Mr. GIANOUTSOS. Thank you very much.

Mrs. GIANOUTSOS. Thank you very much.

The CHAIRMAN. Thank you very much for your testimony.

That concludes the hearing this morning. The committee will stand in recess until the hour of 10 o'clock on next Monday.

That concludes the testimony to be heard for the committee this morning, and following the recess we will hear the testimony with respect to Mr. Trabandt. The committee stands in recess.

[Whereupon, at 12:15 p.m., the committee recessed, to reconvene Monday, July 29, 1985, at 10 a.m.]

MILLER, HORN, AND TRABANDT NOMINATIONS

MONDAY, JULY 29, 1985

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The committee met, pursuant to notice, at 10:04 a.m., in room SD-366, Dirksen Office Building, Hon. James A. McClure (chairman) presiding.

Present: Senators McClure, Domenici, Wallop, Nickles, Hecht, Evans, Johnston, Ford, Metzenbaum, and Melcher.

Also present: Frank M. Cushing, staff director; Gary G. Ellsworth, chief counsel; and D. Michael Harvey, chief counsel for the minority.

OPENING STATEMENT OF HON. JAMES A. McCLURE, A U.S. SENATOR FROM THE STATE OF IDAHO

The CHAIRMAN. The committee will come to order.

Today we are continuing the nominations hearing which began last Wednesday. Pending before the committee is the nomination of Charles A. Trabandt to be a member of the Federal Energy Regulatory Commission.

I will begin by administering the oath to Mr. Trabandt and asking the standard committee questions. Following any opening statement the nominee may wish to make, I will begin the questioning of Chuck by the committee. At that time I will have further comments which I wish to be made.

Mr. Trabandt, as you are quite familiar, the rules of the committee which apply to all nominees that appear before this committee require that they be sworn in connection with their testimony.

Would you please rise and raise your right hand?

[Whereupon, Charles A. Trabandt was duly sworn by the chairman.]

The CHAIRMAN. Please be seated.

You are familiar with the fact that we ask four standard questions of all such nominees.

Will you be available to appear before this committee and other congressional committees to represent departmental positions and respond to issues of concern to the Congress?

Mr. TRABANDT. Yes, sir, I will.

The CHAIRMAN. Your informational statement has been submitted to the committee. However, it is required that this statement be made public unless the committee decides that special circumstances justify an exception.

Do you have any objection to the publication of your informational statement?

Mr. TRABANDT. No, sir, I do not.

The CHAIRMAN. Are you aware of any personal holdings, investments or interests that could constitute a conflict of interest or create the appearance of such a conflict should you be confirmed and assume the office to which you have been nominated by the President?

Mr. TRABANDT. No, sir, I am not aware of any such holdings, investments or interests that would constitute a conflict or create an appearance of a conflict.

The CHAIRMAN. Are you involved in or do you have any assets held in blind trusts?

Mr. TRABANDT. No, sir.

The CHAIRMAN. Unless there be any opening statement that members of the committee might wish, we will proceed directly to the statement of the witness.

[No response.]

The CHAIRMAN. Hearing no requests, Mr. Trabandt, your entire statement will appear in the record. You may summarize or deliver the statement as you desire.

STATEMENT OF CHARLES A. TRABANDT, NOMINEE TO BE A COMMISSIONER, FEDERAL ENERGY REGULATORY COMMISSION

Mr. TRABANDT. Mr. Chairman, if I may, I would like to summarize the statement.

Mr. Chairman and members of this committee, it is an honor to appear before the committee as President Reagan's nominee for the position of Commissioner of the Federal Energy Regulatory Commission for a term ending on October 20, 1988. At the outset, I wish to thank the chairman, the members and the staff of the committee for the assistance and the courtesies provided to me since the nomination. I particularly appreciate the large amount of time which the chairman and the members of the committee personally have devoted to the review of my confidential background reports.

I also would like to take this opportunity to commend my predecessor, Georgiana Sheldon, who has served at the FERC with great distinction for 8 years as part of her long record of public service in the Congress and the executive branch. Georgiana is a friend of many of us here, and I commend her for her outstanding service to the Nation. I also thank her for her assistance and support in my preparation for this position.

As you know, Ms. Sheldon and Commissioner Rich Richard resigned early this month and have left the Commission. I wish them the best of luck in the future.

Mr. Chairman, my appointment until 1988 as FERC Commissioner for which the advice and consent of the Senate is sought, would provide the culmination of over 20 years of public service. During that time, I have been privileged to have served as an officer in the U.S. Navy Submarine Force in the Atlantic and Pacific Fleets; as an Intelligence and Operations Officer in the Directorate of Science and Technology at the Central Intelligence Agency; as a Republican Committee staff counsel in the House of Representatives and

in the Senate; and as an assistant to the Secretary of the Interior. Also as a contractor program manager in the private sector, I managed programs which provided support to the Federal Government in the areas of energy, national intelligence, and Navy antisubmarine warfare. Consequently, I am particularly honored to return before this committee today with President Reagan's nomination to the FERC as the next proposed step in my public career.

Mr. Chairman, the Department of Energy Organization Act in section 204 states that members of the Commission "shall be individuals who, by demonstrated ability, background, training, or experience, are specially qualified to assess fairly the needs and concerns of all interests affected by Federal energy policy." My full statement describes my background and training at the U.S. Naval Academy, the Naval Nuclear Power Training Program, and Georgetown University Law Center. The statement also discusses my activities and experience in the several positions I have had in the executive branch, the Congress, and the private sector.

Mr. Chairman, I would respectfully submit to the committee that the factors which I have outlined in the full statement would qualify me for the FERC position.

Mr. Chairman, if confirmed, I will commit myself to five major elements in our national energy policy. First, the domestic and international policies of the Nation must achieve the highest possible level of energy security for the United States and the industrialized free world. I should note at this point that I personally consider enactment of the 1982 Energy Emergency Preparedness Act to be this committee's finest hour during my service as chief counsel. After the veto of the Standby Petroleum Allocation Act in the spring of 1982, many urged us to drop the preparedness subject. The committee did not quit, but proceeded ahead to forge a new national policy and program which has stood the Nation well in the last 3 years.

Second, our energy regulatory programs must be designed and managed in a manner to assure an adequate and reliable long-term supply of energy at the lowest reasonable cost to consumers, as this committee attempted so hard to do in the 1983 and 1984 natural gas legislation and negotiations.

Third, domestic energy development, production, and utilization must satisfy the letter and spirit of all applicable environmental, fish and wildlife, public health, and safety laws.

Fourth, our policies must be based on maximum responsible reliance on the free market, supplemented by Federal programs as necessary to ensure the energy security and economic well-being of the Nation.

Finally, as Secretary of Energy Herrington has emphasized, the Nation must seek to develop a balanced and mixed energy resource base including renewable energy resources and energy conservation.

I do not believe that these are mutually inconsistent or contrary policy elements. Rather, these are complementary concepts which can and must be integrated into a homogeneous national energy policy. As Secretary of the Interior Hodel has stated so eloquently, this Nation can no longer afford confrontation and stalemate on these critical national issues. We must forge a national consensus

now for the current generation and our beloved children; a consensus to guide us responsibly to the end of this century and confidently into the 21st century.

It would be a privilege for me to join Chairman O'Connor and the other Commissioners at FERC in seeking to contribute to such a consensus at the Commission. Chairman O'Connor has impressed us all with his strong leadership in improving the effectiveness and efficiency of the Commission's operations, as well as his striving for consensus building through his commitment to balance and harmony in the collegial process. If confirmed, I would support as strongly as possible his efforts to improve operations and his commitment to a balanced and harmonious collegiality.

As I have stated privately to the White House staff and to Mr. O'Connor, it is my hope he will continue to serve as Chairman throughout the President's second term.

Mr. Chairman, I am most sensitive, as a former staffer of this committee, that the Commission was established by Congress in DOE as an independent regulatory agency with only those powers expressly delegated by the Congress. There cannot be any exception to the limitations in the DOE Act and subsequent laws on the express functions and legal authorities of the Commission.

For me, the threshold question in the analysis of any proposed regulatory or deregulatory action by the Commission must always be what authority to act does the law expressly provide to the Commission, and what degree of discretion was intended by the Congress? Those who have worked with me over the years know well my constant attention and dedication to the question, "what is the law?" in the analysis of any policy or program issue. I believe that this is particularly important in the context of the proposed rulemaking for natural gas now pending before the Commission. Where the Commission does not have the constitutionally delegated authority or discretion from the Congress to act to deal with an identified problem, the Commission has the obligation to inform the Congress of that result. The Commission, however, cannot and must not assume such authority or discretion on its own initiative. It must await affirmative action by the Congress.

Mr. Chairman, please allow me to conclude on a more personal note. My grandfather, who helped raise me, was the son of German immigrants who farmed in northern Pennsylvania. With a fourth grade education, he eventually was elected as prothonotary or clerk of the courts for Lycoming County, PA. He also served with distinction as president of the Statewide Association of County Prothonotaries in Pennsylvania. He chose to run for prothonotary at the urging of the local community, after a successful career as proprietor of a barbershop in Williamsport, because of his perceptions of rampant abuse of the processes of law in that courthouse. He retired many years later with the satisfaction that the processes of the law were being honored and observed in that courthouse for his community.

It was my grandfather who introduced me as a boy to the law and public service. He gave me a strong personal commitment to the sanctity of the law and its processes and to the importance of service to the American public. With the support of this distinguished committee, I would hope to be confirmed as a FERC Com-

missioner and thereby provided the opportunity to fulfill that commitment in continued public service to this great nation of ours.

I thank you, Mr. Chairman, and I would be very pleased to answer any questions which the committee may have.

[The prepared statement of Mr. Trabandt follows:]

STATEMENT OF CHARLES A. TRABANDT,
NOMINEE FOR COMMISSIONER,
FEDERAL ENERGY REGULATORY COMMISSION,
BEFORE THE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
JULY 24, 1985

Mr. Chairman, and Members of the Committee, it is an honor to appear before the Committee as President Reagan's nominee for the position of Commissioner of the Federal Energy Regulatory Commission for a term ending on October 20, 1988. At the outset, I wish to thank the Chairman, the Members and the staff of the Committee for the assistance and courtesies provided to me since the nomination. I also would like to commend my predecessor, Georgiana Sheldon, who has served at the FERC with great distinction for eight years, as part of her long record of public service in the Congress and the Executive Branch. Georgiana is a friend of many of us here, and I commend her for her outstanding service to the nation. I also thank her for her assistance and support.

Mr. Chairman, my appointment until late 1988 as FERC Commissioner, for which the advice and consent of the Senate is sought, would provide the culmination of 20 years of public service. During that time, I have been privileged to have the opportunity to serve as an officer in the U.S. Navy Submarine Force in the Atlantic and Pacific Fleets; as an Intelligence

and Operations Officer in the Directorate of Science and Technology at the Central Intelligence Agency; as a Republican Committee staff counsel in the House of Representatives and the Senate; and as an Assistant to the Secretary of the Interior. Also as a contractor program manager in the private sector, I managed programs which provided support to the Federal Government in the areas of energy, national intelligence, and Navy anti-submarine warfare. Consequently, I am particularly honored to return before this Committee today with President Reagan's nomination to the FERC, as the next proposed step in my public career.

The FERC was established by the Congress in the Department of Energy Organization Act of 1977 as an independent regulatory agency with a five-member Commission and as successor to the Federal Power Commission's responsibilities under the Federal Power Act and the Natural Gas Act. FERC exercises authorities transferred from the FPC and the Interstate Commerce Commission by the 1977 Organization Act and a series of new authorities established by the National Energy Act of 1978 and later Acts. Under these authorities, the FERC today regulates major aspects of the hydroelectric, natural gas, electric utility, and oil pipeline industries, including assuring that regulated entities have just and reasonable rates and meet applicable safety and environmental requirements. The FERC also must seek to assure that its regulation will provide an

adequate and reliable long-term energy supply for the nation. These important authorities and responsibilities demand that the FERC serve a vital role in our energy markets as an independent regulatory agency.

The Department of Energy Organization Act, in section 204 states that members of the Commission "shall be individuals who, by demonstrated ability, background, training, or experience, are specially qualified to assess fairly the needs and concerns of all interests affected by Federal energy policy." My training and experience includes graduation from the Naval Academy with a Bachelor of Science degree, completion of the Naval Nuclear Power Training Program, certification as a qualified reactor operator and operation of naval nuclear reactors.

While a program manager with a private contractor, I supported energy policy and program activities of the Department of Defense, the U.S. Navy, the Maritime Administration, the Office of Coal Research, the Federal Energy Office, and F.E.A. These activities included, among others, the post-embargo Defense Department Energy Task Force, development and production of the Navy Petroleum and Oil Shale Reserves, the initial assessments of the Strategic Petroleum Reserve, the International Assessment of Project Independence and aspects of President Ford's synthetic fuels initiative.

My experience as a CIA Officer included aspects of nuclear power and non-proliferation and also the growing tensions in the Middle East prior to the 1973 Arab-Israeli conflict, which supplemented my experience as a Submarine Officer in the eastern Mediterranean during the 1967 war. During the years from 1971 to 1975, I completed my legal education with a Juris Doctor degree from Georgetown University Law Center, where I was an editor of the international law journal, specializing in energy-related international law and policy.

For the past decade, prior to joining Secretary Clark at the Department of the Interior late last year, I served as minority counsel to the House Energy Research, Development and Demonstration Subcommittee for two years and as a Republican counsel to this Committee for eight years, including Chief Counsel for the 97th and 98th Congresses. Legislative and oversight activities during my Congressional staff service have covered the full spectrum of energy policies and programs within the jurisdiction of the two Committees.

Those Congressional staff activities ranged across the full spectrum of legal, legislative, appropriations, budget and tax considerations in energy policy. I also was privileged to serve as Senate Liaison to the Department of Energy Team in the Presidential Transition following President Reagan's election.

The Transition Team addressed many of the same energy issues in preparation for President Reagan's first Administration. Additionally, I served for several years on the Advisory Committee on the Law of the Sea and attended the LOS 1981 General Conference in Geneva, Switzerland. Most recently, at the Department of the Interior, I have supported Secretary Clark and Secretary Hodel in many of the energy-related policy and program areas of the Department.

I have benefitted particularly from my association with Secretary Clark and Secretary Hodel, as they sought to make fair assessments in the energy-related policies and programs of the Department of the Interior. As Judge Clark's Executive Assistant, I was privileged to be involved in his approach of judicial temperament, with which he considered and balanced all interests in Departmental program and policy decisions on a daily basis. Mr. Chairman, I believe that the demonstrated ability, background, training and experience which I have outlined would qualify me for the FERC position.

Mr. Chairman, I appear before you as the President's nominee and, as such, I wish to express my support for the energy policy of this Administration. I believe the Reagan Administration and the Congress have fashioned a basic consensus, albeit perhaps grudgingly on some issues, in the area of Federal energy policy and programs. There are many open issues, but a general direction

has been established and we have made substantial progress over the past four years. I would note in that regard that no major new energy legislation was enacted in the 98th Congress. Nevertheless, as the Committee knows so well, there is a great deal more to be done. I am confident that the Administration and the Congress will make continued progress over the next four years.

I will commit myself, if confirmed, to five major elements in our national energy policy. First, the domestic and international policies of the nation must achieve the highest possible level of energy security for the United States and the industrialized free world. Second, our energy regulatory programs must be designed and managed in a manner to assure a long-term, adequate and reliable supply of energy at the lowest reasonable cost to consumers. Third, domestic energy development, production and utilization must satisfy the letter and spirit of all applicable environmental, fish and wildlife, public health and safety laws. Fourth, our policies must be based on maximum responsible reliance on the free market, supplemented by Federal programs as necessary to ensure the energy security and economic well-being of the nation. Finally, as Secretary Herrington has emphasized, the nation must seek to develop a balanced and mixed energy resource base, including renewable energy resources and energy conservation.

I do not believe that these are mutually inconsistent or contrary policy elements. Rather, these are complementary concepts, which can and must be integrated into a homogeneous national energy policy. As Secretary Hodel has stated so eloquently, this nation can no longer afford confrontation and stalemate on these critical national issues. We must forge a national consensus now for the current generation and our beloved children to guide us responsibly to the end of this century and confidently into the 21st century.

It would be a privilege for me to join Chairman O'Connor and the other Commissioners in seeking to contribute to such a consensus at the Commission. Chairman O'Connor has impressed us all with his strong leadership in improving the effectiveness and efficiency of the Commission's operations, as well as his striving for consensus building through his commitment to balance and harmony in the collegial process. If confirmed, I would support as strongly as possible his efforts to improve operations and his commitment to a balanced and harmonious collegiality.

I appear before you prepared to dedicate myself as fully as possible to those commitments as a FERC Commissioner for the next three years. I also am prepared to fulfill the statutory mandate of fairly assessing the needs and concerns of <u>all</u> interests affected by Federal energy policy. In that regard, I am most

sensitive to the fact that the Commission was established by the Congress in the Department of Energy as an independent regulatory agency, with only those powers expressly delegated by the Congress. There cannot be any exception to the limitations in the DOE Organization Act and subsequent laws on the express functions and legal authorities of the Commission.

For me, the threshhold question in the analysis of any proposed regulatory or deregulatory action by the Commission must always be, "what authority to act does the law expressly provide to the Commission and what degree of discretion was intended by the Congress." Those who have worked with me over the years know well my constant attention and dedication to the question, "What is the law?," in the analysis of any policy or program issue. Where the Commission does not have the Constitutionally delegated authority or discretion from the Congress to act to deal with an identified problem, the Commission has the obligation to inform the Congress of that result. The Commission, however, cannot and must not assume such authority or discretion on its own initiative. It must await affirmative action by the Congress.

Mr. Chairman, please allow me to conclude on a more personal note. My grandfather was the son of German immigrants, who farmed in northern Pennsylvania. With a fourth grade education, he eventually was elected as prothonotary, or clerk of the courts,

for Lycoming County. He also served with distinction as President of the State-wide association of county prothonotaries in Pennsylvania. He chose to run for prothonotary at the urging of the local community, after a successful career as proprietor of a barbershop in Williamsport, because of his perceptions of rampant abuse of the processes of law in the county courthouse. He retired many years later with the satisfaction that the processes of the law were being honored and observed in that courthouse for his community. It was my grandfather who introduced me as a boy to the law and public service. He gave me a strong personal commitment to the sanctity of the law and its processes and to the importance of service to the American public. With the support of this distinguished Committee, I would hope to be confirmed as a FERC Commissioner and, thereby, provided the opportunity to fulfill that commitment in continued public service to this great nation of ours.

I thank you, Mr. Chairman, and I would be pleased to answer any questions which the Committee may have.

The CHAIRMAN. Thank you very much.

Before entering into the questioning, I would like to recognize the presence of your wife here this morning with you.

Joan, you are very welcome here this morning.

Chuck, I am about to ask you a number of questions which concern events in your public life and private life which you undoubtedly would prefer were not discussed in public. I will also ask you questions that relate to your honesty and integrity. Some of the questions relate to matters of fact on the public record. Others relate to the opinions of others on the manner in which you carried out your responsibilities as a congressional staff person. These questions are necessary in the collective judgment of the committee due to the information of both a public and private nature of which the committee is aware. Because some of the information has confidential sources, it has created an atmosphere of speculation and innuendo which may do a disservice to you as Senator Melcher has indicated.

It is therefore necessary to your nomination that you be asked questions which give the committee the opportunity to get at the facts and to lay all of the speculation and innuendo to rest. Your responses to the committee under oath I hope will accomplish that end.

Chuck, in 1975 you were arrested in Alexandria, VA.

Would you please describe the circumstances of that arrest and its disposition.

Mr. TRABANDT. Yes, sir, I will.

Let me say also that I appreciate the opportunity to address these questions in the hearing today. I also appreciate the opportunity to hopefully satisfy the concerns which the members of this committee have had, and demonstrate that I do satisfy the constitutional test of fitness to serve in this position.

With regards to the 1975 incident, Mr. Chairman, on the evening of March 11, 1975, I was arrested by a Virginia State Police trooper and charged with operating a motor vehicle while under the influence of alcohol. My wife Joan and I were to be married in Philadelphia on March 15, 1975. She had traveled to Philadelphia to complete final arrangements for the wedding. After work that day, I proceeded to a local pub in Crystal City with friends from work for a final evening out, as it were, as a bachelor before leaving to join her in Philadelphia.

I was stopped on the way home to my apartment in Crystal City. I also was charged with unlawfully refusing to take a blood alcohol test, or breath sampling test. I was released that night on my own recognizance and driven home by a friend.

The wedding proceeded as scheduled on March 15. In Alexandria General District Court, I pleaded guilty to the driving under the influence charge and in a plea bargain the conviction was suspended pending completion of the ASAP Program at the Alexandria Alcohol Center.

My driving privileges were also suspended during that period except for travel to and from work. The program ran from June 3, 1975 until early July. Upon successful completion of the program, I returned to Alexandria General District Court, I pleaded guilty to

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reckless driving and paid a fine. My driving privileges were fully restored at that point.

The CHAIRMAN. You were involved in an altercation at an estalishment called Pendleton's. Please describe the circumstances of that altercation.

Mr. TRABANDT. Yes, sir.

At some point I believe in mid-July 1981, during the House-Senate Conference on the Omnibus Budget Reconciliation Act of 1981, there was an incident at Pendleton's, a bar and restaurant four blocks from this building. Upon completion of conference staff negotiations on a Friday evening, I proceeded with several other senior staff members to a committee staff party being held at Pendleton's. There was a large crowd in attendance, including staffers, friends, and other patrons.

There ensued an argument between myself and another individual who was attending the party. The argument was prompted by complaints by the other person about my style of management and leadership. I was drinking more heavily as the night continued. Apparently, our argument spilled over into a shouting match, and eventually into some slight physical contact as a result of an exchange of unpleasantries.

I can recall vaguely having been restrained by others. To the best of my knowledge, no blows were exchanged, although there may have been some missed swings by either of us. I do not recall many of the details, but eventually I left and was driven home by another staff member.

The next morning, Saturday, I had a meeting with Senator McClure and other senior staff members to do the initial draft of the standby petroleum allocation legislation in preparation for its introduction. I reported the incident to Senator McClure. He admonished me that such conduct was unacceptable and that he wished no repeat performance.

The CHAIRMAN. Following that, in 1981, you were arrested in the District of Columbia.

Would you describe the circumstances of that arrest and its disposition?

Mr. TRABANDT. Yes, sir, I would be pleased to do that and ask the committee to bear with me. The story is unfortunately somewhat long.

On the evening of July 28, 1981, I was charged by U.S Park Police with driving under the influence of alcohol. The committee was in the very last stages of the House-Senate Conference on the Omnibus Budget Reconciliation Act and in fact, the conference report was filed the next evening, July 29, 1981. After work, on the 28th, I joined others at a local restaurant, the Monocle, and obviously consumed an excessive amount of alcohol.

En route home, I apparently hit the curb of the road in the vicinity of 17th Street and Independence Avenue and had a flat tire. Park Police officers arrived on the scene, arrested me and took me to Park Police headquarters in East Potomac Park. My recollection of the events of that evening are very vague at best, starting with the later stages of the drinking at the Monocle. I was quite intoxicated, as the results of a later breathalyzer test documented at the Park Police Headquarters.

I recall very little of the events, which occurred while I was in the custody of the Park Police. I vaguely recall being quite concerned about Joan, and the children, because our second son was then just 2 months old. Joan has told me the Park Police called her, explained the situation, and asked her to speak with me. She recalls that my conversation was quite rambling and slurred, and evidenced obvious intoxication. I do not recall any part of that conversation or the fact of it.

I recall vaguely some conversation with David Swanson. Mr. Swanson was a close personal friend who had served on the committee staff until January 1981, when he joined the White House Congressional Relations Staff. We had worked closely together while he was on the Committee staff, when we were on the Reagan transition team, and also after he joined the White House staff. We had also shared some very difficult family problems together, associated with the health of his wife and my brother. Since that time, my family and the Swansons have shared a beach house in the summers of 1982 and 1984.

I believe I would have sought Dave's help for the purpose of getting home and also helping Joan in managing the problem. Joan recalls that she and Dave did speak to each other by phone that night. In the end, they concluded that neither could help me, because by that time in the late evening, the Park Police had decided to transfer me to the D.C. Jail for the night.

I understand that the Park Police officers have recalled that I was belligerent and abusive, swore in anger, and made threats related to the power of the committee and the Department of the Interior to remedy the wrongful treatment which I argued I was receiving. Apparently, the officers have also suggested I attempted to use Mr. Swanson's name and position to further convince them to release me without charges.

I honestly do not recall those aspects of the evening. At the same time, given the degree of intoxication as evidenced in the conversation with Joan, I cannot honestly say that I did not act in that manner. If I did act in that manner, as apparently may be reasonably concluded from the officers' statements, it is a matter of deep personal disgrace. Such conduct is totally unacceptable.

I also must admit that such conduct with regard to Dave would be a serious breach of our friendship and could have placed him in serious professional jeopardy.

I also understand that there was an argument about my signing certain papers related to release on my own recognizance and an obligation to appear in court. I have a very, very vague recollection about some papers that I refused to sign, because I had decided that I was not, as a law school graduate who thought he knew his constitutional rights, going to sign any papers that might be incriminating. Apparently, although I recall little of it, this argument raged for some time while I was held in a holding cell at Park Police headquarters. It continued until the officers lost patience and communicated to Joan and Dave that I was going to be transferred to the District of Columbia Jail for the night and arraignment in the morning.

My memory starts to become slightly sharper at this point, as I was handcuffed behind my back and driven to the D.C. Jail. It was

the first time in my life that I was handcuffed or booked in jail. In fact, I had only visited jail previously to take custody of intoxicated sailors, while I was a submarine officer.

I spent the night in the D.C. Jail in a small cell, becoming increasingly more sober and aware of the seriousness of the situation as the night wore on. I shared the cell with a gentleman, who I recall was a very large man in street clothes. He and I agreed that he would sleep in the bunk and I would stand in the corner. [Laughter.]

The next morning we were given coffee and a doughnut, and then transported in handcuffs in a paddy wagon to the D.C. Superior Court. We were placed in a holding cell with perhaps a total of 20 other men in a cellblock in the basement of the building. We were in the custody of U.S. marshals awaiting arraignment. Lawyers from the Public Defender's office visited the cellblock approximately at 7:00 or 7:30 They interviewed each individual in the holding cell. It was at that point, approximately 7:30 or 8 in the morning, that I began to seek assistance in obtaining a fully lawful, but early as possible, release in order to return to my duty in the Senate.

Pending on that day in the committee was a scheduled business meeting, I believe, at 10 o'clock. Also, of great urgency to me was the final wrap-up of the Omnibus Reconciliation Conference Report, since the conference report was scheduled to be filed that evening.

The Public Defender lawyers were totally unmoved by my dilemma and my requests for assistance. I was, however, able to gain access to a telephone with the help of one of the U.S. Marshals. I do not recall all of the exact details, but I apparently talked to one or more members of the committee staff and to my wife. I did not reach my attorney in Fairfax, either because I assumed he couldn't help in time, or I tried and he was in court and not available. I honestly have a vague recollection that I may have tried to find him, but I can't honestly recall that with any certainty.

Ultimately, in any event, after these several unsuccessful contacts, I contacted Steve Shipley, Executive Assistant to Secretary Watt. I asked if there was anything he could do to assist me in getting a fully lawful but expedited, release to return to the Senate. I believe I would have called Steve, because I had gotten to know him fairly well during and after Secretary Watt's confirmation process. Also, because I thought he handled the Secretary's liaison function with the U.S. Park Police since, as you know, the Secretary often had Park Police protection.

Mr. Shipley agreed to see what he could do to help me, but only in terms of a lawful release and an early return to the Senate. He was not prepared to offer, nor did I seek, any assistance to avoid or modify the charges against me at that time. By that point in the morning, the gravity of the DUI charges against me were obvious, and I had no intention of taking any action to avoid proceeding in a fully lawful way.

Mr. Shipley arrived at the cellblock some time later and spoke to me through the barred visitor windows that were available. I recall that he informed me that he was accompanied by the Park Police lieutenant, who was responsible for routine liaison with the Superi-

or Court. I reiterated the situation and again sought his assistance in completing the arraignment and being released to return to the Senate, as soon as possible. I believe the time was about 9:30 or 10 o'clock at that point, and I was increasingly worried about the business meeting proceeding without me.

At some point thereafter, I was transferred upstairs with several other prisoners to a small holding cell outside of the Superior Courtroom. One by one, we were taken before the Magistrate and arraigned. Finally I was taken into the courtroom. I appeared by myself and explained my situation to the magistrate and the Assistant Corporation Counsel and my need to return to the Senate urgently. I also signed a notice to return to court in the D.C. Traffic Court at a date set by the court.

I was released on my own recognizance. Mr. Shipley met me at the courtroom door, as I recall, and gave me a ride back to this building. In the car, he introduced me to the Park Police lieutenant, whose name I cannot recall.

In retrospect, it is clear that my effort to obtain Mr. Shipley's assistance in securing an early, albeit fully lawful, release from the court to return to the Senate was an error on my part. I was wrong despite my commitment to my duty and my honorable intentions.

I can assure the committee that, to the very best of my knowledge, there was no interference with the judicial process applicable to me at that time by myself, Mr. Shipley or the Park Police liaison officer. All that did occur, to the best of my knowledge, as a matter of fact, was that I proceeded to arraignment, was arraigned, and released in a fully lawful manner. Other than my own error in judgment, I am not aware of any other ethical or legal question relating to my release.

I did return to the Senate about 11 o'clock, or midday. The business meeting, I recall, had been concluded, and my attention was focused on the Omnibus Budget Reconciliation Act Conference Report. As soon as I could, that day or the next day, I contacted our attorney in Fairfax County to obtain a referral to an attorney in the District of Columbia to handle the DUI case. I recall contacting several attorneys on the list and ultimately visiting one, who accepted my case.

I was anxious to proceed with this matter, because I was scheduled to leave in early August for the Law of the Sea Conference in Geneva, Switzerland. I was a member of the Law of the Sea Advisory Committee. And, I was involved in the administration's efforts to reopen certain titles of the draft LOS Treaty, which dealt with deep seabed mining.

I met with my attorney on several occasions, before and after the trip to Geneva. Eventually, on his advice, I entered into a plea bargain and pleaded guilty to reckless driving on August 31, 1981, in the Superior Court Traffic Division as part of the plea bargain. I was fined $150 and sentenced to 90 days in jail. The 90-day sentence was suspended, and I was placed on probation for one year.

Because of the DUI arrest, my license was also suspended on July 28, 1981, by the D.C. Department of Motor Vehicles. With the assistance of my attorney, the license was restored on October 1, 1981, after I filed a report from my family physician indicating I had had a physical examination, was in good health and physical

condition, and did not exhibit any medical symptoms of alcohol abuse.

I believe the letter served in place of an alcohol rehabilitation program. I would note that Senator McClure and Michael Hathaway, staff director of the committee at that time, were advised immediately of the DUI arrest and the general circumstances associated with it. Senator McClure called me in and informed me in no uncertain terms that I had to improve my personal conduct from that time forward.

Needless to say, this incident is a low point in my professional and personal life. It was conduct unbecoming an officer or any senior official in public life. The involvement of Mr. Swanson, the apparent reported treatment by me of the Park Police officers, the night in the D.C. Jail, the ethical questions associated with contacting Mr. Shipley, the embarrassment to this committee, and the anguish caused my family are not easily forgotten.

I can only say that the time for change was obvious after that incident, and I can assure this committee that change, in fact, has occurred since that night 4 years ago.

That completes my statement.

The CHAIRMAN. Mr. Trabandt, on that night, you weren't just drunk, you were apparently very drunk. The Park Service police indicated that you registered .020 on the breatholizer—.20, I mean, not .020, and that .05 is the statutory definition of intoxication. Do you recall how much you had had to drink that evening?

Mr. TRABANDT. Obviously, it was a considerable amount, Mr. Chairman.

The CHAIRMAN. What did you say to the Park Service officer when he arrested you?

Mr. TRABANDT. I honestly don't recall any specific comments that I made at that time.

The CHAIRMAN. Did you tell him that "I wrote your budget?"

Mr. TRABANDT. I don't recall.

The CHAIRMAN. Did you say to him, "You can't do this to me?"

Mr. TRABANDT. Again, sir, I don't recall.

The CHAIRMAN. Did you tell him that you were chief counsel of the Energy Committee, and that therefore an officer of the National Park Service couldn't arrest the chief counsel to the Energy Committee, which provides the National Park Service budget?

Mr. TRABANDT. I don't recall saying that.

The CHAIRMAN. What kind of language did you use in talking to the National Park Service officer?

Mr. TRABANDT. I don't recall. I understand that it was rather abusive and I was swearing.

The CHAIRMAN. Did you tell him you were going to call the White House?

Mr. TRABANDT. I don't recall that.

The CHAIRMAN. Did the Park Service officer ask you to sign a form stating that you would agree to appear in court to answer the charges?

Mr. TRABANDT. As I stated in the statement, I do understand that that was a matter of some debate between the Park Service officers and myself.

The CHAIRMAN. Did he repeatedly ask you to sign that form?

Mr. TRABANDT. I can't recall other than the general statement I made.

The CHAIRMAN. Did he tell you that if you refused to sign, he would have no alternative but to lock you up?

Mr. TRABANDT. I don't recall, but I suspect that he did.

The CHAIRMAN. And you have recited that you called Mr. Swanson. Is that correct?

Mr. TRABANDT. Apparently I did, yes, sir.

The CHAIRMAN. And he was at the White House at the time, or it was through the White House switchboard?

Mr. TRABANDT. He was, as I understand, at his residence, and the call would have been placed through White House signal, the switchboard, to his residence.

The CHAIRMAN. Did you in the course of that conversation with Mr. Swanson hand the telephone to the police officer so that Swanson might speak directly to him?

Mr. TRABANDT. I don't recall having done that, Mr. Chairman.

The CHAIRMAN. Did Mr. Swanson ask the police officer or the police to release you into his custody?

Mr. TRABANDT. I honestly don't know, sir.

The CHAIRMAN. You have indicated that the following morning you called Mr. Shipley, who was the executive assistant to Secretary Watt at the Interior Department. Is that correct?

Mr. TRABANDT. Yes, sir.

The CHAIRMAN. And he then went to the courthouse to expedite your release?

Mr. TRABANDT. I honestly don't know exactly what he did. As I said in my statement, I spoke to him from the holding cell in the basement of the building and asked that he, if he could, try to expedite my arraignment, which was a condition precedent to being released. What Mr. Shipley may or may not have done to accomplish that, I do not know, Senator.

The CHAIRMAN. Who else did you call while you were at the police station or during the course of that evening? I think you have indicated you called your wife.

Mr. TRABANDT. In the morning I called my wife, and in the morning I called my office here at the committee. During the evening, to the best of my knowledge, I made no calls.

The CHAIRMAN. Except to Mr. Swanson?

Mr. TRABANDT. Well, I am not sure I even made that call. It would be hard for me to understand how I could have made any call. I talked to my wife, apparently, with the Park Police officer having——

The CHAIRMAN. Why did you refuse to sign the form agreeing to appear in court?

Mr. TRABANDT. I can't be sure, other than what I have indicated, that at that particular point in the state of misjudgment I was in, I assumed it was incriminating. I am quite sure I couldn't have read the document.

The CHAIRMAN. As I understand from your statement, in connection with the 1975 arrest, you had entered and completed an alcohol program.

Mr. TRABANDT. Yes, sir.

The CHAIRMAN. Did you participate in a program for alcoholism after the 1981 incident?

Mr. TRABANDT. No, sir. As I indicated in my statement, I believed that there was no requirement for that which would have come from the department of motor vehicles or possibly from the court. In lieu of that, I think the requirement was that I present medical evidence that I was not subject to alcohol abuse.

The CHAIRMAN. These incidents tend to suggest that at least in a period of your life you had a problem with public intoxication. Isn't that correct?

Mr. TRABANDT. Certainly with regard to the specific instances. Yes, sir.

The CHAIRMAN. Can you tell this committee that that is all in the past?

Mr. TRABANDT. Yes, sir, I can.

The CHAIRMAN. Have there been any instances in which there has been public intoxication, that required the intervention of the police since that time?

Mr. TRABANDT. No, sir.

The CHAIRMAN. Let's turn to a different subject if we may. Apparently there were some problems associated with the filing of the 1981 omnibus reconciliation conference report that led to some differences of opinion with respect to how that should be handled and some comments concerning your conduct during that period of time.

What do you recall about that event?

Mr. TRABANDT. Senator, if I could somewhat set the stage as to what I believe is the specific area of inquiry. As I recall generally, the Senate conferees had met with the House conferees and completed final action on the conference late in the week prior to the DUI we have already discussed.

At that point, the Senate conferees signed the formal conference report papers. The signatures were placed on the papers, as was general practice at that time and, I think, now, conditioned upon the respective committee staffs reaching technical agreement on the final statutory language and conference report statement of the manager's narrative, before the formal papers were filed.

Unfortunately, after the last conference meeting and the signatures of the Senate conferees, there was a major disagreement. It developed over the weekend among the House and Senate staffs, including the majority and minority staffs of this committee.

The disagreement regarded the text of a particular provision in the statutory language necessary to carry out the final stated agreement of the conferees. The disagreement began on Friday night and intensified on Saturday morning. It escalated to the point by Monday morning that there was a complete impasse as between the House and Senate staff on filing the conference report, at all.

At that point, several conferees indicated, as I recall, that they were withdrawing their support, until the issue was resolved satisfactorily. The issue was, in fact, resolved to the satisfaction of all of our conferees after some hurried consultation between members and staff, in fact, on the day of the DUI.

The signatures were restored and the conference report was filed on July 29, 1981. With regards to positions that may have been taken during the weekend, there was in fact some shifting of positions. That was in progress at that point, with regards to the language which was at issue. In the end, and I think it is fair to say we went through a period where there was some disagreement among certain of our conferees, not only on the Energy Committee's portion, but also on the whole budget conference, the conferees who were on the whole conference.

Fortunately, the conferees were able to reach agreement as to the text of that provision, and, as I indicated, the conference report was filed with what I believe is the full satisfaction of all of our conferees.

The CHAIRMAN. Mr. Trabandt, as I understand, at least one person in the course of those events over that weekend or during that period of time has suggested that you deliberately misrepresented their position in order to get signatures of Senators on that conference report.

Mr. TRABANDT. Senator, I do not recall that that was the case. I don't have as complete a recollection of that event as some others may have. I believe the signatures were largely obtained on the basis of the fact that the conference meeting of the members had completed action, and we were in the process of writing the final report.

The area of disagreement came with regards to, as I said, a specific provision, and the question, I believe, turned on how the staff was going to resolve that disagreement. In the end, it came down to two formulations of what I believe was one sentence, one formulation which I believe the majority of the conferees would support, and another formulation which others were convinced best represented the conference agreement.

I argued, and as affirmatively as I could, sought to have placed in the report the version which I believed a majority of our conferees supported. There was disagreement from the minority staff of this committee and the House staff. In the end, after the consultation I made reference to earlier, the conference report adopted the language that was supported by the House staff and our minority staff. I do not recall, and would hope that it would not be true, that I misled, let alone misrepresented anyone's position. I did forcefully attempt to achieve the conclusion, which I honestly felt was sought by our conferees.

I would further state that I think our conferees when they came in to work on Monday and were faced with the situation, at least the Republican conferees, consulted themselves and the leadership. And, they concluded that the best course of action was to agree with the provisions as had been supported by the House staff and our minority staff, and that was the result in the conference report.

The CHAIRMAN. As a staff member for committees of the Congress in both the House and the Senate, have you followed a practice or can you remember instances of offering different views on the same issue to different people?

Mr. TRABANDT. No, sir. Not different views with regards to issues, in that context, not misleading. I didn't always tell every-

body the same level of detail about pending matters, but I didn't intentionally mislead people.

The CHAIRMAN. Have you had occasion to trade the information which you had in your knowledge in order to obtain information from others?

Mr. TRABANDT. In my position as chief counsel, I felt it was imperative, and I would think any chief counsel would agree, to be as fully informed as possible about the issues then pending before the committee and the positions that were being taken by the committee.

Consequently, I was in almost constant touch with senior officials in the executive branch, other congressional committees, interest groups, and outside parties who were interested in our work. To the degree that that communication and that exchange of information may be seen by some as a barter process, I would disagree. I believe people gave me information, and I shared information as they may need as an effort to do my job better. I did not trade, per se, information.

The CHAIRMAN. Do you have any recollection of having been less than honest in conducting your official responsibilities?

Mr. TRABANDT. No, sir.

The CHAIRMAN. Do you have any recollection of ever having fabricated the facts concerning official matters?

Mr. TRABANDT. No, sir.

The CHAIRMAN. Do you think that you ever abused your power as a congressional staff member, particularly as chief counsel of this committee, are prone to abuse of such power, or are vindictive in the use of power?

Mr. TRABANDT. No, sir, I honestly do not believe that that is an accurate characterization of my conduct as chief counsel of this committee or my approach to any position. I believe I exercised the greatest possible care to avoid any appearance or fact of any abuse.

I also would say that having been in the military and at CIA, where there is a hierarchy of authority, what was available to me as chief counsel was authority and responsibility delegated by the chairman and the committee to carry out my responsibilities. I tried to be as sensitive as possible to never using that authority except as it was consistent with directions from the chairman and the committee, and in support of positions which had been taken by either the chairman or the committee.

The CHAIRMAN. Do you think that people with whom you work think that you are trustworthy?

Mr. TRABANDT. Yes, sir, I do.

The CHAIRMAN. Do you think that there is anybody with whom you have ever worked who thought you were not?

Mr. TRABANDT. There, perhaps, are those who did not find my actions as chief counsel as favorable as they would have liked. Since I was a fairly demanding supervisor, I am sure there are, perhaps, those who may be disgruntled with regards to their employment and assignment to me. But, on balance, I don't believe there are any grounds for any claim of untrustworthiness.

The CHAIRMAN. Do you feel that in your official responsibilities there might be an occasion where you might be an embarrassment to the President?

Mr. TRABANDT. No, sir, I do not. I would not be here before the committee today, if I had any doubt of the fact that not only would I not be an embarrassment to the President, but I would not be an embarrassment to this committee or to my family. I come before you fully convinced that I will conduct the office of commissioner of FERC, if confirmed, in a manner that will be a credit to the President and the administration, and also to this committee and my family.

The CHAIRMAN. Mr. Trabandt, let me return to one matter which in my view is perhaps more serious than the others. In 1981, when you were arrested——

Mr. TRABANDT. Yes, sir.

The CHAIRMAN [continuing]. And although you were intoxicated, which in itself is perhaps a serious matter, you called, among others, two people, one who was a White House aide and the other an executive assistant to the Secretary of the Interior.

While you have expressed yourself on that, I return to that because I would like again to ask you whether you think that was appropriate conduct.

Mr. TRABANDT. Senator, in both cases it was highly inappropriate conduct. I made a mistake. I should never have called Mr. Swanson or had police officers place the call to Mr. Swanson. Although he was a personal friend, the fact that he was a White House official, and I don't recall how I used that fact, but the mere fact and appearance that he was a White House official at that point in what was a criminal matter was totally unacceptable. My intoxication notwithstanding, I consider it to be very disgraceful.

With regard to Mr. Shipley, I can see in retrospect, particularly after my activities for the last several weeks in response to the questioning of Senator Metzenbaum and other members of the committee, that that was an error.

I also know better now, having been executive assistant to Judge Clark of the special relationship which does, in fact, exist between the Park Police and the Secretary of the Interior. As a result, I consider that to have been a serious error in judgment.

The CHAIRMAN. I might ask members of the committee whether they—well, I am obviously going to yield to others at this time, and alternate with respect to questioning of the witness. My questioning has dealt with personal conduct over a previous period of time. I haven't dealt with the substantive matters that FERC will be called upon to deal with or this man will be called upon to deal with if confirmed and becomes a member of the Commission.

Would it be satisfactory with the committee if we explored these matters of personal conduct and then turned to the substantive questions with respect to the policy of the Commission? Perhaps we can keep a more cogent line of questioning if we do that.

Are there others who wish to make comment or ask questions of the witness with respect to personal conduct questions?

Senator Johnston.

Senator JOHNSTON. Mr. Chairman, I would just say that I am sure that Chuck learned a tough lesson with respect to alcohol. I would guess having those handcuffs put on and being put in a cell all night long would be a rather indelible lesson about the abuse of

alcohol, and I for one would imagine that a person of your intelligence would not forget that lesson soon.

As far as making the calls, I think that the calls you made were made, my guess is, as a direct result of the alcohol. Unfortunately, you would upon occasion be what might be called a "mean drunk." Hearing the story, it is enough to make somebody quit drinking. [Laughter.]

Senator FORD. Too much. [Laughter.]

Senator JOHNSTON. So I would guess that you have learned that lesson, Chuck. Those things will happen, and I would guess the fact that you have not had any further problems in the last four years, I would guess you won't do that again. And there are other lessons to be learned from this hearing.

The chairman has asked a number of questions that deal with your relationship with staff and with other members, and I think it is fair to say that upon occasion those have not been successful. You are highly competent, very bright. My relationship with you has always been good, but that is not true with everyone, as these questions would indicate. I hope that from that you will also learn the same kind of lesson you have with respect to the drunk driving.

I for one do not think these incidents are so bad as to indicate a pattern that cannot be changed. I think you can learn from the lessons, and I trust that you will. It is a tough way to learn it, here, in the full light of day, but a lesson learned is still a lesson learned, and I trust you will take what is said and profit from it.

Mr. TRABANDT. Yes, sir.

The CHAIRMAN. Thank you.

Senator Nickles.

Senator NICKLES. I will pass, Mr. Chairman.

The CHAIRMAN. Senator Metzenbaum.

Senator METZENBAUM. Senator Ford was here first.

Senator FORD. I will yield to you.

Senator METZENBAUM. Thank you. I have a couple of questions.

Chuck, I think your statement has been forthcoming, particularly with respect to the alcohol. Just as a simple supplement to that, do you still drink?

Mr. TRABANDT. On occasion, yes, sir.

Senator METZENBAUM. Since 1981, would you say that—well, the chairman asked you about whether you have been involved in any matters where police were involved or the public. Can you tell us candidly whether you feel you may have been intoxicated or since that period that you have drunk to excess?

Mr. TRABANDT. Senator, in the 4 years since that incident, I suspect I have attended several hundred receptions, social events, dinners, athletic events, in which alcohol was available. At many of those events, members of this Committee and other Members of Congress and staff were present, in addition to my family and others. I think in the large majority of those cases there was never any difficulty.

I would not be honest, however, if I did not say that there had been at least a few occasions, I hope very infrequent, of excessive drinking consistent with the old submarine "work hard, play hard" theory which led me down a path in 1981. I have, I think, successfully curbed that practice now. After the 1981 incident, there were

at least a couple of such occasions in generally after-work parties or after-work get-togethers with drinks. At those few occasions, I believe I drank to excess and was probably—in some respects could be considered to be intoxicated.

After that incident, however, I began not driving whenever there was any question in my own mind as to my status. I can recall three or four such occasions in those years immediately following the incident, when I took a cab home because of my own conclusion that I should not be driving.

There have been no such incidents, however, that I can recall in the last year or two. Unfortunately, I have found that hard liquor can be a problem. I used to enjoy bourbon and vodka. And, I apparently don't have quite the capacity, that I once thought I did. I tend now to have a glass of wine or drink a light beer.

Senator METZENBAUM. One of the issues of concern deals with—I guess the simple word is integrity. The chairman asked a question about misrepresenting the position of a fellow staff member that was contrary to that staff member's point of view or to that staff member's actual positions, and you indicated that it was sort of a misunderstanding.

I guess the question I would ask you specifically is, do you remember in that situation misrepresenting the position of a senior staff member on the opposite side, the Democrats, to House Members or to House staff, and then acknowledging that misrepresentation to the Democratic member of the Senate Energy staff, and that thereafter Senators took their names off the report that had been signed?

Do you have a recollection of that?

Mr. TRABANDT. Not in that formulation, Senator. I think that what we are dealing with here is, perhaps, a matter of somewhat vague recollection on my part. But, I don't have any doubts with what I think are the underlying facts. Conference staff on Friday evening, whatever that day was in July, changed or adopted a change in a piece of language that had to do with a very important provision. The provision was very important to the final result in terms of the total savings available under the reconciliation instruction. It was of high importance to members of the Republican leadership, to the White House, and at least to certain of the conferees on my side of the aisle.

The language was changed notwithstanding the instructions I had given to our staff that they should not under any conditions agree to a change. There was some misunderstanding that occurred as a result on that Friday night. Saturday morning, I went in and was confronted with the situation that, because of that change, the conference report was unacceptable to my conferees, to my Republican conferees, in my judgment.

In fact, I communicated with some of the conferees and with members of the total conference staff with regards to the problem. I was urged to continue to press for its return to the language which was considered to be acceptable.

During what was a highly antagonistic series of conversations between members of the various House and Senate staffs, I did in fact make a phone call to the senior staff member you make mention of, Mr. Harvey. I don't have any recollection of the exact dis-

cussion. I think I was calling him to alert him to the fact that the conference agreement was about to fall apart. There were conversations that occurred throughout the rest of that day and on Sunday as we tried to come to some agreement.

The signatures, as best I can recall, and perhaps I am wrong, were already on the report at that time. The signatures of the members had been signed, and the question was not whether or not anybody had misled them into signing. The question was whether or not there was any misrepresentation or misleading with regards to the product of the conference.

As I recall, the two Democratic conferees were Senator Jackson and Senator Johnston. That Monday morning, I was informed that they were unwilling to remain signed because of the disagreement. And, I also became aware that one of the Republican conferees had concluded that because of the disagreement he no longer was willing to remain signed.

Senator METZENBAUM. Was that Senator Hatfield?

Mr. TRABANDT. Yes, Senator Hatfield, until it was resolved. Quite honestly, there was some confusion as to the position as between the Republican conferees, Senator Hatfield in particular, during the course of the weekend. I had information, which led me to believe that the Republican conferees, in fact, intended the result which I was seeking to achieve.

As of Monday morning, that at least in my mind had changed, and there no longer was unanimity on my side. Had there been, it was a 3 to 2 situation. There were three Republican conferees, and there were two Democratic conferees. And, I, in fact, was accurate to assert that there was majority Senate support for the proposition I was trying to advance.

When it became clear it was not the case, the Republican leadership and the interested Republican members caucused and discussed the situation. Eventually, there was agreement to stay with the language supported by the House and Senate staffs. That, quite candidly, was a change in position and a change in the instructions I had received, which I honorably and faithfully intended to carry out.

It was a change, as you know, that can occur any time in the process prior to final conference filing. This change was occasioned with a great degree, I think, of very serious consideration, both in the White House and in the Republican leadership. That having occurred, the conference report was filed.

I may have had various conversations with Mr. Harvey and other members of the minority staff. I might note that I then and now highly respect them, and I have always considered them to be friends. I don't honestly recall having said that I did or did not mislead or misrepresent anyone.

I have a suspicion based only on the way in which I conducted my business throughout that time. I may not have been anxious to disclose completely the nature of the debate which was raging on our side of the aisle and with the White House, as to which provision to go with.

I will say that it involved a considerable amount of money and the treatment that would be accorded to it in terms of the appropriations process. Others concluded that treatment was very impor-

tant, but I did not, to the best of my knowledge, mislead anybody, in fact. I did not, to the best of my knowledge, misrepresent anyone's position in trying to achieve the conference result, which I had been instructed to achieve.

I think that what I may have said or the effort I may have made to avoid a full disclosure of the debate that was going on on our side at that time may have in Mr. Harvey, or someone else's, mind established to their satisfaction that I did mislead. As you may recall, that was a particularly partisan period.

The Gramm-Latta substitute had just successfully passed over the objections of the House Democratic leadership. There wasn't a great deal of enthusiasm for everything we did in that conference, although our conferees in this committee had a very bipartisan and, I think, largely a consensus position to advance. But, on this one particular issue, there was a very serious disagreement.

I might also add, Senator, that I don't believe that there has been any suggestion since that point in time that I misled or misrepresented anything either to Senators or to staff. As far as I was concerned then, the representations which are made between Senators and staff are the glue that makes this place work. If that could not be depended on, we could not do our business or you can't. I am no longer here. You can't do your business.

I sat in front of you approximately 185 times as chief counsel, The committee reported 180 bills and enacted 106. The committee confirmed 61 nominations. And I don't think in any of that effort anyone ever charged me with misleading or misrepresenting to you or to your Democratic staff.

Senator METZENBAUM. Well, I think the rather lengthy response about the fact that there were differences around here, there are changes in positions, and all of that we acknowledge, the basic question, the basic question is, did you misrepresent Mr. Harvey's position? You subsequently acknowledged to Mr. Harvey that you had misrepresented his position. Thereafter, did the Senators remove their names? I think that is the simple gist of it.

Mr. TRABANDT. I will answer that in one, two, three. The simple answer is, I did not to the best of my knowledge misrepresent Mr. Harvey's position.

To the second question, to the best of my knowledge, I do not recall ever having said to him that I had intentionally misrepresented his position or misled others to that conclusion.

With regards to the third point, the removal of the signatures, as best I recollect, and heaven knows, half the committee staff here was involved, had nothing to do with my conversations with Mr. Harvey. They had everything to do with whether or not the provision was going to be in one form or another, and the confusion which surrounded that.

Now, perhaps Mr. Harvey or others have reason to believe or recall that it was somewhat different, but that is how I recall it.

Senator METZENBAUM. To the best of your memory, tell the committee whether you can recollect any instance in which you have given different information or opposing points of view or advice on the same subject in some instances in dealing with Senators or top people or party administration.

Do you have any recollection at all of ever doing anything of that kind?

Mr. TRABANDT. I would have to say, Senator, as chief counsel, that there were various degrees of openness and candor with which I explained our pending business to different individuals. As between Senators, I don't believe I ever was guilty of misleading or misrepresenting or giving them varying positions.

If a Senator asked me a question, I gave him the answer to the best of my knowledge. If I couldn't answer because it was a matter confidential to the chairman, I told the Senator that and suggested he talk to the chairman. If it was a matter that was confidential to another member of the Senate, I gave him the same answer.

With regard to administration officials, and there are several who come to mind rather immediately, I was an ardent supporter of the positions of the committee. If I was asked by administration officials from time to time about where we stood on a certain matter, knowing full well that they had in mind doing everything possible to frustrate our position or defeat the effort we had under way, I was not completely forthcoming, and I think that was my responsibility.

I wasn't serving as a public information officer. I was serving as chief counsel. I might also say that I can recall numerous conversations with Senator McClure and other members of the committee at times with regard to how much we should say about then pending negotiations, then pending planning that was being done on legislative strategy, always trying to make sure if I could of checking signals that we weren't being overly secretive or overly public about our business.

That was a matter of personal concern, because there had been charges that I was too secretive at various times. But, I don't believe that that was dishonorable. In fact, I believe I was doing my job.

Senator METZENBAUM. Would you expand a little bit about the comment that you just made that I was not completely forthcoming? What are the criteria that one uses to determine when to be completely forthcoming—I guess that means just being honest—and when to be a little less than forthcoming, because to tell a half-truth is as bad as telling an untruth in some instances.

Mr. TRABANDT. Well, Senator, I think that openness and candor is far different than the forthcoming honesty issue that you are trying to raise. If a reporter stops me in the hall and asks me what has happened in a meeting——

Senator METZENBAUM. But I am not talking about reporters. I am talking about people in the administration, people in public office, people in the Senate, that type of thing. I understand the limitations with respect to the media.

Mr. TRABANDT. If an administration official calls and says what happened in a meeting between Senator Metzenbaum and Senator McClure on the Cuyahoga Park, I will say I really don't want to go into that, or I really don't think that is appropriate at this point. When they have something to announce, they will announce it. I don't see that as being dishonorable. I think that is all just required of me.

I was called many times on matters of natural gas negotiations by the top men in the DOE, who had natural gas responsibility. They wanted to know every single thing that you were discussing on those negotiations, I felt it was inappropriate for me to provide that information. I didn't give them a half-truth. I told them I wasn't prepared to discuss it.

Senator METZENBAUM. But that is a different thing. Saying you are not prepared to discuss it is one thing, but saying I was not completely forthcoming is a little different situation. I can understand saying I just can't give you any information on that.

Mr. TRABANDT. Well, Senator, a lot of people in this town got very mad at me, because I was not prepared to disclose everything we were doing. I am not real well liked by some oil industry lobbyists, who wanted to know a lot better what we were negotiating with you on some of the IEA and EPCA things. I suspect that is a matter again of openness and candor.

It has nothing to do with honesty. I didn't tell them a half-truth to lead to a different result. I just didn't tell them, or told them what is generally and publicly available, and that makes people mad. They think they have a right to know everything in many cases. I didn't happen to believe that that was the case.

Senator METZENBAUM. Thank you.

The CHAIRMAN. Senator Wallop.

Senator WALLOP. Thank you. I pass.

The CHAIRMAN. Senator Ford.

Senator FORD. I have no questions. Oh, well, let me make just one point, Mr. Chairman. I kid around a lot about being from Kentucky, and everybody understands what we make in Kentucky, but there is an ad before every 3-day holiday and otherwise that alcohol mixes with everything but gasoline.

Chuck, when you said that you were still drinking, and you made up your own mind as to when you thought you had too much or not, and you would get a cab and go home if that ever occurs, then you shouldn't have started in the first place. Gas and alcohol do not mix. I would just admonish you as a fellow who understands the beverage industry as well as anybody, that if it creates that kind of problem, you ought to just quit.

You can fight them in the Navy in various and sundry ways. You can play hard and you can continue to play hard, but you don't have to get bombed out where you think you enjoyed it and paid the price for it the next morning.

The CHAIRMAN. Senator Evans.

Senator EVANS. Thank you, Mr. Chairman.

I would just endorse what Senator Ford has said. I think that sounds an awful lot like alcoholism, which is a disease, and there is only one cure, and that is to quit drinking.

I think we have said enough on that.

Senator Metzenbaum asked a number of questions on the right to know and how much information should be passed along from one group to another. I would just like to ask your view as to the relationship of one Commissioner to another on the Federal Energy Regulatory Commission.

How do you view that relationship and the apparent way in which you have conducted your affairs before, especially with this

question of exchange of information and right to know? How does that relationship differ in your view, or does it differ at all in your view from your relationships with, say, minority committee staff, with members, with others, lobbyists?

Mr. TRABANDT. I think there are several important factors to be made, Senator. When I was chief counsel of the committee, I had responsibilities which were markedly different than those of a Commissioner. In many respects, I believed then, and I believe now, that the formulation and execution of legislative strategy is best done in a controlled information kind of circumstance.

I have seen many very good proposals, which were prematurely publicized and blew up before people had a chance to think them through. I have seen circumstances where good faith communication of information caused untold damage to the efforts of the committee.

With regards to Commissioners, it is an entirely different situation. My opening statement makes reference to something I believe very, very firmly. There must be a harmonious and a balanced collegiality at FERC. I personally know all five Commissioners at the NRC. I have watched with dismay as that Commission has broken down to the point, that Senator Simpson has proposed its abolishment.

I would not want to go to FERC under anything like those kinds of circumstances. I must say, however, that the Congress in the Sunshine in Government Act has limited markedly the nature of the communications that can occur between Commissioners. It is a matter of some very serious legal constraint as to how much can be said by Commissioners at what points in the process under the Sunshine Act, which limits the number of Commissioners that can even stop in the hall and see each other. Additionally, there are additional limitations under the ex parte rules, which apply to the Commission's business.

A Commissioner must be very careful not to breach the ex parte limitation on communication with regards to pending matters. The way the Commission actually works is that the Commissioners very seldom talk about matters together. They send their respective staffs to meetings to discuss options, and then those are reduced to writing and sent back to the Commissioners. This is an independent regulatory Commission. I would intend to do nothing that the law would not fully allow in the way of communication.

To the degree that I can communicate, I certainly would do so with Chairman Ray O'Connor. He is someone I have admired for a long time. And, I also know the other Commissioners. I intend to support the collegiality that they have established.

I might also say, Senator, and I don't say this in any way disrespectfully, I think you should inquire of the people in the leadership staffs, our minority staff, and the people on the staff here on the committee with whom I have worked for eight years. I believe you will find that we had an extraordinarily good level of communications when we were working on the same issue together. When we were working in opposition, we were able to manage our affairs quite responsibly. That is the way I always try to do my business, issue by issue.

Senator EVANS. I guess I would say in passing that I would hope you wouldn't want one of your staff members to go talk with other staff members at the Federal Energy Regulatory Commission and come back and tell you only part of what had transpired.

Mr. TRABANDT. Well, that is one of the requirements of good staff or Commissioners. I mean, of course, they also speak with other folks.

Senator EVANS. Mr. Chairman, I think this round was intended to be on some of the personal problems. I think that I probably would like to ask some other questions in due course. But I will wait.

The CHAIRMAN. Certainly. I think several members would like to inquire on the substantive questions of law and policy. Senator Melcher.

Senator MELCHER. Mr. Chairman, in regard to this hearing on Mr. Trabandt and his nomination for Commissioner of the Federal Energy Regulatory Commission, it imposes on us a judgment not only of ability to perform as a Commissioner, but also it has imposed on us another responsibility.

First of all, I have no illusions that what I am about to say would change anything with Mr. Trabandt if he is confirmed as Commissioner. There are numerous questions that come before the Federal Energy Regulatory Commission that are of great importance to my State, and I know that despite some favorable things that I am about to say about Mr. Trabandt, it isn't going to do me any good when these issues come before the Commission. If he is sitting there as a Commissioner, he is going to call the shots as he sees them.

And so the question really is before the committee what kind of Commissioner would he make. Well, I want to tell you what I said earlier, Mr. Chairman. I am going to vote for Mr. Trabandt. And I am going to have you cast my proxy, or somebody, Mr. Johnston, either one of you, if I do not happen to be here at the time the vote comes, because I have a strong feeling that this is rated on a score of one to ten of President Reagan's appointees.

To any group having anything to do with energy, this is going to rate pretty high on that scale. The next person we have before us might not know anything about energy, or might not know anything about FERC, or both.

So, my remarks are really on this process. This process of suddenly having an FBI report became a rather significant event. This is not the best process, or at least in this instance it has proven that it is not the best process, and let me tell you in my judgment why.

When there was some flak about the fact that Mr. Trabandt maybe wasn't a good appointee, it became apparent to me that a better look at this FBI report was needed and the circumstances for looking at it are intriguing. I was told to call somebody in Mr. Fielding's office and make an appointment to see the report because it would never be available under any circumstances other than that; second, that the report would be presented to me in a room with this person, whoever brings it, and that I could look at it as long as the person was in the room, and couldn't copy it, I guess.

Well, I made the appointment, and found out that that conflicted with some other Senator. I said, well, that is no problem to me, just send another person with a copy of the report. That turned out to be impossible. In other words, one report, one person from Mr. Fielding's office.

Well, I still thought I ought to look at it if I was going to participate in this hearing, so I made another stab at it a day or two later, and found out that the person with the report was still occupied, and I said, how long does this go on? I asked that they just send somebody with the report to the Agriculture Committee whenever it was possible.

Somebody came up with the report. I absented myself from the Agriculture Committee, and in these days and these times on that committee that is a rather risky thing to do, but I did absent myself from the committee in the adjoining room of the chairman, and said, let me read it. And I read it.

I found that it wasn't all that interesting.

This is because all that I could find, other than a few allegations—allegations about what Mr. Trabandt's performance as our staff director in this committee—but the other things I found were a matter of public record. While I wasn't aware of these matters on public record, there are a lot of things that I'm not aware of on the public record, nor are any of us, or the public expected to be aware of these things.

But I think the process is wrong, and I have been called by a reporter whom I hadn't heard from for several months and asked if I'd seen it. I promised that after I saw it I would call back, and I will repeat most of what I think I said then.

Mr. Trabandt had attended an alcohol safety action, program, or something like that, which are held in most jurisdictions, as a result of driving while under the influence. And rather than terming it public intoxication, Mr. Chairman, as I heard you term it a few minutes ago, let me give you the scientific definition generally followed by most States, most jurisdictions, what driving while under the influence is, and it's far from public intoxication.

Most State laws say that a person who has one-tenth of 1 percent of blood alcohol or alcohol blood quantum, however you want to say it, blood alcohol or quantum, is legally drunk, intoxicated. And that for the average person—I learned all of this in the alcohol safety action program, so I know. I beat you there, Mr. Trabandt.

And for the average person who has indulged in either two beers or almost 2 ounces of bourbon of about 86 proof within an hour, the metabolic rate of the body handling that alcohol will show .01, that is one-tenth of 1 percent, alcohol in the blood. And that person then is legally intoxicated.

Now, I believe in this for purposes of driving, because there isn't any question in my mind that the time of reaction has been diminished to the extent that that person might be a dangerous driver, and so I am in full support of that. I only mention this because I think it is altogether different than public intoxication, which in most jurisdictions is appearing to be less than in control of themselves and obviously intoxicated.

I don't find these events to be commendable, of course, Mr. Trabandt. They're not commendable. However, I don't think they are

earth shaking yet, either. And for those reasons, I object to the process that has been going on in the handling of the FBI report in this case, sort of indicating that there is a lot that is hidden from public knowledge—I think that process is wrong. I think to the extent that the process is wrong, you personally have been damaged in your reputation because it isn't that big a deal.

And I am pleased, knowing from my own knowledge that you have a great amount of skill and judgment on energy matters, I am pleased that the President has recommended you to be Commissioner of the Federal Energy Regulatory Commission. And if you are confirmed, I wish you all success and diligence and energy in carrying on your duties in the capacity that you demonstrated here, which was indeed quite a bit of energy and diligence.

I didn't get all I wanted out of you, Mr. Trabandt, in many a situation. But I have to say that in an adversarial forum I found you highly competent, and I expect to find you highly competent in your new mission if you are confirmed, and I think you shall be.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Domenici.

Senator DOMENICI. Thank you, Mr. Chairman.

First, Mr. Chairman, I want to compliment you on the way you handled the hearing. I was thinking back for Mr. Trabandt's purposes and it would appear to be that reconciliation is a dangerous thing. Maybe that's why we haven't had very much of it since 1981.

The CHAIRMAN. I have heard it said in other places, and it may have been the chairman of the Appropriations Committee who said, it'll drive you to drink. [Laughter.]

Senator DOMENICI. It'll drive you to drink? I thought maybe you would come to that conclusion.

Senator MELCHER. I trust the chairman of the Budget Committee is using the word reconciliation as it's used under the budget law?

Senator DOMENICI. In a most perverse manner, yes. [Laughter.] It is very difficult to understand that it is really that.

Senator MELCHER. It drives great fear into the hearts of all of us.

Senator DOMENICI. Mr. Trabandt, let me ask you with reference to your work here. Before you left, do you have any rough estimate of how many hours you worked a week here in the Senate?

Mr. TRABANDT. I suspect we probably averaged 80 to 90 hours a week. I generally would arrive in the 7:30 timeframe and would leave in the 8:30 timeframe, unless the Senate was in late, sir, and on weekends.

Senator DOMENICI. I, too, share the admonition and the concern with reference to your future drinking habits. But I wonder. I have had the opportunity to read the FBI report which has been alluded to here. And I ask you this question because I think it is fair that it be on the record.

My recollection in reading it in its entirety, I never found anybody that said you drank while you were on the job. Is that a fair statement?

Mr. TRABANDT. Senator, I occasionally would have a drink at a luncheon. But other than that, I attempted to avoid any such drinking.

Senator DOMENICI. Now, let me just ask you this. With reference to this reconciliation dispute in terms of where the conferees were

and where they ended up, it's my recollection that the principal issue there was how one calculated the savings that were mandated to be made by this committee with reference to authorizing legislation. And suffice it to say that that was a very difficult notion in terms of who had the right answer.

Is that a fair statement?

Mr. TRABANDT. Yes, sir. The particular matter in the context that you speak was the treatment of appropriations already made and available for the Strategic Petroleum Reserve Program and the purchase of oil, because the legal effect of the action in the reconciliation bill would have been to declare all moneys for the SPRO to be off budget.

At that time, the committee and the Congress had been in a dispute with President Carter with regard to purchase of oil. So there was a considerable amount of money that had already been made available, but not yet obligated and spent, that could have been subject to different treatment.

The concern was the effect of rollover of that budget authority. If it was declared to be off budget, then the fear was that in the appropriations process that it would be creating—I don't remember the number, whether it was $800, $900, or $1 billion, of rollover authority. In effect, there could be conceivably a slush fund of that amount, which would be available to fund programs which otherwise couldn't have been funded under the Reconciliation Act.

And, the desire was to preclude that as a matter of law. And the debate was over the language, which would effect the treatment of those already existing appropriations.

Senator DOMENICI. Now, if Senators signed the conference report and then later decided that they didn't want to be on that conference report, so that we will understand and the record will reflect, at that point in time there was no detailed language as to how that particular provision that you were talking about—there wasn't any specific language before the conferees, Republican or Democrat, when they affixed their signatures; is that correct?

Mr. TRABANDT. That's correct, Senator.

Senator DOMENICI. In fact, that's normal. I'm not saying there was anything abnormal about that.

Mr. TRABANDT. Sir, that's normal practice, and to the best of my knowledge this particular issue had not been the subject of formal action as an issue in the conference of the members. It became a technical question as a matter of how we drafted the language.

Senator DOMENICI. I just wanted to say to the chairman and ranking member, just from my own 13 years here, not recalling the staff participation in the incident, but I personally have signed a conference report, only to find that three days later when the language was before me and my staff I decided that I was not a willing signator and I removed it.

In that particular instance, there were plenty of signatures to comply with the requisite majority. But that's happened to me. I don't dispute that there may be different reasons in this particular case, but in my case what I understood and thought the language was going to do versus what it did when I saw it were different.

And consequently—again, I don't know what would have happened if I had been the sole necessary signature. We'd have had to

go back to conference, but I would have removed it anyway. That was my prerogative as I saw it. And I just want the record to reflect that has happened to me before.

I have no further questions.

Mr. TRABANDT. May I say at this point, Senator, in fairness to everyone involved in that situation in 1981, it was a highly charged and I think very controversial period of time. Over that weekend and that Monday morning, there may have been in the minds of some more of a focus on the process by which the dispute proceeded. And, in the minds of others, there may have been a serious concern as to how we had ended up in the impasse that had an effect on the decisionmaking of one or more of the conferees.

I must say, my mind was, and clearly my recollection is, focused on the end result which we were seeking. That was to legally preclude rollover and the expenditure of those funds. And, the instructions which I was attempting to carry out to achieve that result.

I think that that may explain, to some degree, why there is some confusion in the record at this point as to what different people recollect. And, I hope that the committee will appreciate that it is certainly no intention on my part to suggest in any way that my recollection is the only recollection. It's just that we had different operating principles, I think, at the time, and perhaps that finally erupted in the sense of what to do.

And as you may recall, you were in attendance at the meeting which finally resolved that matter, when the conferees, the Republican conferees and the leadership, met to try to come to a conclusion, and ultimately it was successfully resolved.

Senator DOMENICI. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Hecht, do you have any questions at this time?

Senator HECHT. No, Mr. Chairman. Thank you very much.

The CHAIRMAN. Then we will turn to the questions of substantive policy of FERC, and I recognize Senator Johnston.

Senator JOHNSTON. Thank you, Mr. Chairman.

Chuck, as you know, the FERC recently issued a notice of proposed rulemaking. It is a very, very far-reaching proposed rule. I think it was proposed during the same week that the President's tax bill was trotted out, which means that most of the attention of most of the people around here was focused on that tax bill, and this very far-reaching FERC rule I don't believe was fairly considered, at least not by members of Congress and certainly not by me.

Frankly, I can't tell you what all is in that notice of proposed rulemaking. I do know that it is highly controversial. I am advised that, of those who made comments over there, 85 percent disapproved of those and asked for additional time to further comment. And as I say, I can't argue with it very much other than to say that I would like some time to examine it.

Now, I am not going to ask you what you're going to do. I simply commend to you the fact that when and if you are confirmed by this committee—and I expect you will be—that you ought to put attention to that issue, because I don't think anything is lost by additional time to comment. I think to have a rule that is that far-reaching approved precipitously, and I think it would be precipi-

tously, in the face of 85 percent of whoever was asking for additional time, I think it would be improvident to do that.

Recently, the Committee on Appropriations enacted an amendment, my amendment which I put in on my own behalf and also because Senator Metzenbaum had suggested it. So we have both sides of the street well covered on that particular issue, the idea being that we want additional time. I think the amendment says we have 120 days before it was promulgated and put into effect.

So I would simply commend that issue to you. I don't even ask for a comment, but I hope you will look at that when you get on the Commission.

Mr. TRABANDT. May I make a response, Senator?

Senator JOHNSTON. Surely.

Mr. TRABANDT. I think this is a very important issue and I think the chairman, Chairman O'Connor, and the Commission are to be commended for attempting to fashion a comprehensive response. I think it is particularly important that the Commission actively consider what to do to improve the natural gas situation. The court cases in D.C. Circuit will have the effect on October 31 of ending the current transportation program, which has provided some flexibility not only for producers but to get lower costs for consumers.

The court has ruled that they are discriminatory and they must end. Chairman O'Connor has said that it is his hope to fashion a final rule by the end of the year, recognizing that he has extensive comments.

I personally think that any rule has to meet several very important principles. I would like to have a minute, if I could, to articulate them at this time. First, I think that any rule has to be legally sound. Many of the comments have questioned whether or not the Commission has the authority to even act as they propose. I think that's important, because there has to be probability that this new rule and the new operations will withstand judicial review. The court has not been terribly supportive to date of the initiatives of the Commission.

I also think it's important that the new rule, if there is to be one, be operationally workable in the industry. Many of the comments, which I have reviewed, go to the very heart of whether or not the industry can simply function with the proposal that has been made. I think it has to be operationally workable, as a result.

As we learned so well in 1983 and 1984, it's difficult to fashion a balance as to how to proceed into the post-1985 timeframe. But I think any rule has to be an improvement.

Change for change purposes alone is not good enough, and I think that we'll have to find a way, whether I am a Commissioner or others are Commissioners, to make an improvement. As Senator McClure used to say when we were in those extensive markups, we weren't just going to exchange one form of economic difficulty or misery for another form by going from high prices to supply problems.

I think, fourthly, that it has to be effective as possible in introducing competition and the exchange of market signals. I am concerned that we have a situation now where we have producers who are in extremis, we have overdeliverability, and we have consum-

ers not getting the benefit of it. I think competition can improve that, but I hope that the rule can be fashioned to do that.

And finally and perhaps most significantly, I would hope that any rule is going to be a positive step forward in providing an assured supply of natural gas for the long term at the lowest reasonable cost to consumers. But, I think that anything we do in this rule which would have the effect of negatively impacting on an assured reliable supply would be totally unsatisfactory.

I can assure you and the committee, that I am sensitive to the need for a prudent, measured timeframe in going forward. If we are going to have a comprehensive rule, no less than when we try to have comprehensive legislation, I think it should meet those tests. That's a substantial challenge.

Senator JOHNSTON. You might add one other test, too, and that is that it be clear and unambiguous. I understand that this rule is subject to that. I cannot quote you chapter and verse on that, but it has been criticized as being ambiguous and unclear as to what it really means.

Other than that, it must be a great rule.

Mr. TRABANDT. It must be a great rule, yes, sir. [Laughter.]

Senator JOHNSTON. But I know you will look at that very carefully.

It is, to say the least, a very serious rulemaking, probably the most far reaching, and it may eventually be a good one. But I just hope it will not be implemented too quickly.

Mr. TRABANDT. Yes, sir.

Senator JOHNSTON. That's all I have, Mr. Chairman.

The CHAIRMAN. Senator Evans.

Senator EVANS. Thank you, Mr. Chairman.

Let me proceed on the question I was asking before, but turn to the substance side of the question of operating within the Commission. You mentioned some of the difficulties which now tend to restrict the interchange between members of the Commission, with particular notice to the NRC. And I would agree with you that it is sometimes a ludicrous sort of situation.

I guess it does remind me of my time as Governor, where I quickly got to the point where in two ways I believed that commissions were not very worthwhile. One was Abraham Lincoln's old appointment criteria, where you created nine ingrates and one enemy, or nine enemies and one ingrate, I guess, every time there was an appointment to a commission.

And second, I guess just because of the nature of commissions operating, I believed that probably the best size commission was one, and I guess I still believe that.

If you had the opportunity, would you suggest any changes in the law as it relates to the ability of commissioners as regards being in closer contact with one another, change the ways in which they operate, and still, you know, straightforwardly and honestly carry out the business of the commission?

Mr. TRABANDT. Senator, I honestly do not have enough experience or information working with FERC to really know how successful or how difficult the process may be in allowing some communication. As you know, in the NRC situation, a rulemaking was done under circumstances which have been criticized, to allow

them to meet to discuss issues in a generalized way without the Sunshine Act limitations.

It's my understanding that under the FERC procedures there is more latitude than perhaps the NRC used to have, and there have been no major complaints about their ability to communicate.

I'd prefer to await, if confirmed, the opportunity to look at that. But, I'll certainly be pleased at that point to communicate to you, if there are improvements that may be needed in the system. The Sunshine Act itself I think has seriously limited communication, but it has provided sunshine. And those commissions are now acting in an open forum no different from the sunshine in which the committee has acted since the reforms in 1977.

Senator EVANS. I have several questions on electric energy policy. What is your view of sections 211 and 212 of PURPA, that relate to third party wheeling, especially the preservation of existing competitive relationships? I guess generally your view on the whole question of mandatory wheeling.

Mr. TRABANDT. I think as a practical matter it is generally accepted in the industry and in the Commission that mandatory wheeling as contemplated by Congress in PURPA has not been a success. Well, it's not fair to say it hasn't been a success, but the criteria which were established in PURPA that must be met before mandatory wheeling can be made available are sufficiently stringent, particularly the competitive question, that the Commission has found itself unable to order such wheeling in most cases.

Senator EVANS. In fact, I guess there have only been two requests even of the Commission in eight years.

Mr. TRABANDT. Yes, I believe you're right; I think something like that. And as a result, there simply is little flexibility for the Commission at this point to move in that direction.

That is the subject, as we discussed in my courtesy call with you, of the notice of inquiry which FERC has issued and hearings, which will begin in the month of August and then again in September. They will address the question of wheeling as to what might possibly be done under existing law or under amendment to existing law to support a more aggressive wheeling program.

Senator EVANS. Do you have any views at this time as to what might be done, or what are your views regarding a more aggressive program? Is that necessary or even desirable?

Mr. TRABANDT. I think at this stage, as I understand it from talking with the FERC division people, a majority of the bulk power wheeling which people are attempting to accomplish these days is being done on a voluntary basis. Consequently, the mandatory wheeling issue is somewhat less serious than perhaps was seen by Congress in 1978 in the National Energy Act.

But, certainly there are still circumstances, and the most celebrated circumstance is in the Kentucky case, where apparently the limitations which exist have precluded the opportunity for lower cost power being made available to distribution companies and consumers. I think I would prefer to wait before giving any statement of final opinion for those comments received from the NOI, because they are intended to address that specific question.

Senator EVANS. Given circumstances where clear evidence pointed out the opportunity for customers or consumers to gain access to

lower cost power, but prevented to do so by an intervening utility with no wheeling being allowed, under those circumstances, with that as a set of facts, do you think that they ought to be allowed mandatory wheeling if necessary?

Mr. TRABANDT. Well, Senator, I think the concerns which prompted the actions of the Congress in 1978 and the criteria which have proved to be so delimiting are still relevant considerations. And, they would have to be weighed in any case, with regard to the situation you describe.

I would hope that there is a way to balance those criteria, though, to make lower cost power available, when there is no significant detrimental effect that would be associated with that result.

Senator EVANS. Are you familiar with BPA's near-term inter-tie access policy that has been formulated by Bonneville and subequently tested in the ninth circuit?

Mr. TRABANDT. I am generally familiar with the inter-tie policy and had some communication with Bonneville during the time frame when they were discussing it.

Senator EVANS. Do you believe that that is a reasonable policy if that came before FERC for any kind of review or approval?

Mr. TRABANDT. Well, I have to be careful now, Senator, that I don't prevent my own participation in the matter if that were to be part of a rate case. As you know, FERC's primary responsibility, in fact it's exclusive responsibility with regards to BPA, has to do with ratemaking review. I would not suspect that the inter-tie policy per se would be presented to the Commission as a severable matter.

Senator EVANS. Perhaps not, although it potentially has some real impact.

Mr. TRABANDT. It has some very strong implications, however, for rates. I think as a general matter the notion of developing the type of a policy that is included in the inter-tie policy is supportable.

Senator EVANS. I think this is a case where you are caught between a rock and a hard place. You don't want to disqualify yourself from future hearings, but you would like to be able to engage in future hearings, and this is test one.

Mr. TRABANDT. Yes, test one.

Senator EVANS. On the third AC inter-tie, a memorandum between the parties is now subject to FERC review. How much of that do you think ought to be subject to review by FERC, the memorandum of understanding between the parties? That review of FERC is due to supplemental appropriations language within the House as a 2-year review, and the Senate has a 180-day review.

To what degree do you think that's necessary, and what parts of it should be subject to review?

Mr. TRABANDT. Well, again, I think that's a question which is going to probably have to be addressed by the Commission as part of the consideration of the matter. The Commission may have to decide in an adjudicatory sense how that relates to their responsibilities.

As a general matter, it does seem to me that the memorandum of understanding has sufficient impact on the responsibilities of

FERC, that there ought to be some degree of review. The extent of that review, however, I don't have enough factual knowledge of the technical legal question to be able to tell you.

I do have familiarity with section 7 of the Northwest Power Act. But, I honestly don't know how that has been construed to deal with the memorandum at this point.

Senator EVANS. What is your understanding of FERC's responsibilities under existing law to ensure repayment of the Federal investment in the Bonneville Power Administration?

Mr. TRABANDT. Under section 7 of the Northwest Power Act, Senator, FERC must review the proposed rates for Bonneville with regards to several specific areas. One of these is repayment of the Federal obligation under the revolving fund arrangement by which the Power Administration works.

So as a matter of fact, FERC must attempt to ensure that the ratemaking provides sufficient repayment on an annual basis to the Federal Treasury, and that has occurred. Chairman O'Connor, since he has been at the FERC, in conversations with the Bonneville people and through the staff to staff negotiations, has been successful in increasing the amount of payment that has occurred.

Senator EVANS. Do you think there is a better way than the current one of FERC giving tentative approval up front to a rate case that Bonneville seldom gets around to doing the final approval until just about the time the rate case is over and the new rate case comes along? Does that make any sense?

Doesn't that deny to FERC the opportunity to make any substantive change, because it'll almost be moot by that point?

Mr. TRABANDT. Well, I can tell you from personal experience, it was quite a hurdle to convince the FERC that they ought to make the interim approvals. There was a period of time when they refused under the law to do interim approvals.

I think the answer to your question is that it's an unwieldy process. It was originally drafted by the chairman of the committee back in 1980 or 1979, to ensure that there was full and complete participation of all interested parties in the Northwest. And, at the same time, there was the necessary oversight by FERC.

And I think at the time it was drafted, and in its implementation by Bonneville Administrator Peter Johnson, everyone proceeded with the understanding that there would be the best effort made to make it work. And if, in fact, there were parts of it that needed to be refined, that that could be accomplished.

Senator Hatfield of the Energy and Water Appropriations Subcommittee and Congressman Bevill on the House side as well, have paid very close attention to that process, as has this committee. At this point in time, I think that we are still making improvements and gains in the system. I hope the gains would continue, so that the process doesn't lead to the result which you have indicated.

Senator EVANS. Do you believe personally at this point—would you suggest some modifications or changes in the Act as it relates to that interplay between the rate-setting at the Bonneville level and the review by FERC?

Mr. TRABANDT. I still believe that as a matter of national policy review by FERC serves a purpose. And, I think it serves a purpose not only from a budgetary point of view, but in a practical political

sense. The Administrator of Bonneville has extraordinary authorities and powers. Much of the Northwest Power Act was written to ensure that those powers were constrained and that the process that was to be followed would be an open public process, because of its tremendous economic impact on the Northwest.

I still think that's a valid proposition. I think the real question goes to the technical matters, now that the Bonneville Act has been largely implemented. It is 5 years into implementation now. Many of the most difficult original aspects of the act, dealing, for example, with the exchange of power, dealing with the question of the industrial users, the average system cost, the interplay with the Washington Public Power Supply System, and so forth, those have been resolved, they have been resolved not only in the administrative sense, but resolved through judicial review of those aspects of the act.

So now the ratemaking process is much more, I think, a more regularized process. And, perhaps, there are some things that could be changed in the law to accommodate a less adversarial approach.

At the same time, if it's a more regularized process, perhaps the things which have slowed it down are no longer going to cause the problem. And, we can proceed with the necessary participation and still get things done in a timely way.

We'll know that much better in perhaps 2 years.

Senator EVANS. Mr. Chairman, I have one or two other questions, but I will submit those at the end.

The CHAIRMAN. Thank you very much.

Senator Ford.

Senator FORD. Thank you very much, Mr. Chairman. I have only a couple of brief questions.

I want to revisit Senator Johnston's concern as it related to the notice of proposed rulemaking on natural gas transportation and ratemaking, Mr. Trabandt. Of course, there is a lot of concern among the gas industry in my State and the consumers, and of course that interests me considerably, as it did Senator Johnston.

And after I visited this only lightly, it seems to me that what FERC is attempting to do here is to restructure the natural gas industry, and I'm not sure that's their jurisdiction as we gave it to them in 1978 under the Natural Gas Policy Act.

You said a moment ago it had to be legal and in your opinion it had to be legal, and maybe it is. But I think what's apparent is that these proposed regulations would forever alter the natural gas industry and I think have a profound impact on my consumers. And I think if they do on mine, ours is a consuming State, it would on the Nation as a whole.

I appreciate what you said to Senator Johnston, and it's my impression from what you said to him that you weren't giving this proposed rulemaking a rubberstamp.

Mr. TRABANDT. No, sir, I have no intention, if confirmed, of giving it a rubberstamp. I don't know if you were present, when I made the statement which appears on pages 7 and 8 of my opening statement. I feel very strongly that the FERC, as an independent regulatory Commission, has only the powers delegated by Congress.

If it turns out that those powers are so constraining that they cannot propose a comprehensive rulemaking, their only course of

action is to so inform the Congress. But they should not to proceed to promulgate a rule which exceeds that authority.

I can promise you, if confirmed, in every appropriate way I would ensure that point is made.

Senator FORD. I would be hopeful, too, without asking you to guarantee it or say that you will—I don't think we ought to put you in that kind of position. Some would like to and maybe I would like to, maybe on other issues also. But you should devote the necessary time to give full consideration to this I think is awfully important, and with your background here in the Congress I would hope that we might have an additional congressional hearing as it relates to it before we get into the final phase of what I consider a very important issue.

Mr. TRABANDT. I might just comment that I believe Chairman Sharp of the House subcommittee with jurisdiction over these matters has sent a very lengthy and comprehensive inquiry to Chairman O'Connor, which is in the process of being responded to at this point. And that's certainly a position which the House committee has taken as well, sir.

Senator FORD. What is your political affiliation?

Mr. TRABANDT. I am a Republican.

Senator FORD. I just wanted to get it on the record, Mr. Chairman, because section 401 sets it out very clearly. And thank you, sir. [Laughter.]

The CHAIRMAN. Senator Metzenbaum.

Senator METZENBAUM. Mr. Trabandt, on pages 7 and 8 you make it quite clear that FERC will—that you don't believe they ought to do anything the Congress has not given FERC the authority to do: "The Commission, however, cannot and must not assume such authority or discretion at its own initiative. It must await affirmative action by the Congress."

In that connection, as you well know, Congress has specifically rejected proposals on several occasions to decontrol the price of old gas. In light of that unambiguous action, could you provide the committee with some assurances that you would not support efforts at FERC to decontrol old gas through the regulatory process?

Mr. TRABANDT. Senator Metzenbaum, Chairman O'Connor provided to Chairman Dingell a letter with regards to the old gas question, concluding that the Commission had no intention of attempting to deregulate old gas through its processes. And I support the letter as it was written.

Senator METZENBAUM. Well, as I didn't see the letter——

Mr. TRABANDT. Which has the effect of saying that I would not support deregulation of old gas in any way beyond the authority of the Commission.

Senator METZENBAUM. And knowing the law as you do, is it your understanding that the Commission does not have authority to deregulate old gas?

Mr. TRABANDT. I am not aware of any provision in current law that would accomplish the deregulation per se of old gas, no, sir.

Senator METZENBAUM. So therefore the committee may be assured of the fact that you will not be a party to any deregulation of old gas at the Commission level unless Congress acts affirmatively in that area?

Mr. TRABANDT. That certainly is my position, yes, sir.

Senator METZENBAUM. Now with respect to the Bonneville Power Authority, as you know, there is a concern that many of us have about amortization of the obligation on a regular basis. I think we are all sensitive enough to the impact upon that part of the country that we understand that there may have to be some negotiations, some compromises found.

But having said that, what is your view with respect to FERC's obligation and responsibilities in seeing to it that some appropriate—that rates are set in such a way that the U.S. Government may recoup on a regular basis the investment that it has in the Bonneville Power Authority, and that it not just continue to drag on as it has for so many years in the past?

Mr. TRABANDT. Senator, the Pacific Northwest Power Act had the effect of re-enacting the responsibility, the affirmative legal obligation, of FERC in its review of Bonneville Power rates to ensure that there would be a repayment of the Federal obligation.

Senator METZENBAUM. What was that word you used?

Mr. TRABANDT. Repayment.

Senator METZENBAUM. Thank you.

Mr. TRABANDT. Repayment to the Federal Treasury.

As I indicated to Senator Evans, FERC has in the last several years more aggressively pursued that matter with Bonneville. Also the Administrator of Bonneville, Mr. Johnson, has more aggressively demanded that the Bonneville rates be formulated in a way which would ensure an increased repayment.

I believe that most recent repayment is somewhere on the order of $600 or $700 million, which is orders of magnitude higher than previous repayments had been in earlier years. As a result, I think that significant gains have been made on that front. And, I certainly would support the effort that Chairman O'Connor is making to ensure that it continues.

Senator METZENBAUM. Do you feel that FERC could provide a leadership role in trying to work out a future schedule that would provide for amortization, barring some unforeseen developments, that might be fair to those who are served by the Bonneville Power Authority?

Mr. TRABANDT. I'd be very concerned about that, Senator. To the extent that the Commission has an adjudicatory responsibility to review the ratemaking which is done, the staff can certainly participate in conversations. But, the repayment schedule negotiations are affirmatively the responsibility of the Secretary of the Treasury. And, it's the Secretary of the Treasury in negotiations with the Bonneville Power Administration and the Secretary of Energy who must establish in the first instance the repayment schedule.

The FERC staff can participate in those discussions in a generalized way. Because of the Commission's responsibility ultimately to consider the rates that result from the repayment schedule, I would be highly concerned that there would be an abuse of authority for the Commission to become involved in a leadership role, as you characterize it.

Senator METZENBAUM. Thank you.

I have no further questions.

The CHAIRMAN. Are there further questions?

Senator EVANS. Mr. Chairman, I do have one, as a followup to Senator Metzenbaum's question.

The CHAIRMAN. Certainly, Senator Evans.

Senator EVANS. Do you believe that in all cases current law even allows—I think you have given a clear answer as far as FERC is concerned—that in the case of all projects current law even allows Treasury and DOE to engage in the establishment of a specific year to year repayment program?

Mr. TRABANDT. I believe current law does allow that and that is the practice, Senator.

Senator EVANS. But in many of those circumstances they have set by law the 50 years and not requiring—I am talking about an annualized——

Mr. TRABANDT. You are talking about a project-specific repayment?

Senator EVANS. Yes.

Mr. TRABANDT. Senator Metzenbaum was inquiring about the Bonneville Administration.

Senator EVANS. I understand.

Mr. TRABANDT. I think that is an important distinction.

Senator EVANS. But currently Bonneville, as you understand it, Bonneville has the responsibility of payback, unlike many other national projects, incidentally, to pay back all maintenance and operation initial payment, interest on those projects, within a 50-year period, generally with some difference for transmission?

Mr. TRABANDT. Generally.

Senator EVANS. To your knowledge, has Bonneville ever missed a payment on principal yet?

Mr. TRABANDT. I honestly don't know if they've ever missed it. The term of art which was prevalent at the end of the seventies and the early eighties was "stiffing Treasury." When they stiffed Treasury, I don't know if they did it with token amounts or if they ever did it with a zero amount.

Senator EVANS. Oh, I don't think they ever did it in terms of principal. There may have been delayed interest payments.

Senator METZENBAUM. Would my distinguished colleague not recognize the fact that, if they didn't miss a principal payment, that in some instances it had to do with the fact that the debt was rescheduled? It's like the bank that rolls over the money that is owed it from Brazil and then just lend them extra money so that they can pay the interest and change the repayment schedule.

I think that has happened, has it not?

Senator EVANS. I don't think the repayment schedule has been changed, but I think the interest payments have been delayed. And whenever they were delayed, the Bonneville Power Administration paid interest on the delayed interest at current market rates.

The CHAIRMAN. I think that certainly there were questions about how Bonneville conducted the accounting.

Senator METZENBAUM. That's a very delicate way of putting it, Mr. Chairman. [Laughter.]

The CHAIRMAN. Well, it is a very delicate question.

There certainly was rescheduling of debt as more debt was added, and the aggregate debt was rescheduled. There was also the question of whether or not they should be permitted to repay the

obligations that had the highest interest rate in preference to repayment of the debt that was the oldest, that may have had a lower interest rate.

Those issues have been discussed and I suspect will continue to be discussed. But I do want to join in the concern that has been expressed by many as to whether or not Bonneville is repaying.

My understanding of the current rate schedule that is in effect now, that has previously been approved by FERC after consultation with all of the parties, including the Department of Energy and the Secretary of Energy and the Secretary of Treasury, is that Bonneville is currently under a repayment schedule that will repay all of the O&M, all of the interest, and all of the principal if followed and if projections that they assumed in the rate structure prove to be the factual scene as it unfolds.

And none of us can know for sure what economic recovery is, what industrial or nonindustrial consumption may be, what the water years may be that deal with the gross amount of power that may be available for sale, nor indeed upon what the out-of-system sales may yield, either in terms of volume or in terms of revenue.

Certainly all of us will be watching that. I am certain that the Senator from Ohio will. I am sure the Senator from Washington will, and I know the chairman will.

I might just note in closing that the committee has three business sessions scheduled for this week in an effort to wind up all of the business of the committee that is ready to be considered on the floor of the Senate during the balance of this week. We have regularly scheduled sessions on Tuesday, Wednesday, and Thursday, and all matters which are ready for committee action will be on those agendas for those business meetings.

It is obviously the hope of the chairman that all matters that we hope to get done before the end of the week will be reported by the committee as early as possible, in order that we have the greatest possible latitude of working it into the floor schedule so that we can handle all of these matters before the end of the week.

With respect to the pending matter, I hope all members who have questions for submission in writing will do so before the close of business on today, so that the responses to those questions may be received by the committee in a timely manner.

Of course, it is the hope of the chairman that we will be able to conclude this matter, both in the committee and on the floor of the Senate, before the end of this week.

Is there anything further to come before the meeting at this time?

[No response.]

The CHAIRMAN. If not, the hearing will be adjourned.

[Whereupon, at 12:19 p.m., the hearing was adjourned.]

51-869 O—85——6

APPENDIXES

APPENDIX I

Biographies and Informational Statements of the Nominees

THE WHITE HOUSE

WASHINGTON

Office of the Press Secretary

For Immediate Release May 13, 1985

The President today announced his intention to nominate Russell F. Miller to be Deputy Inspector General of the United States Synthetic Fuels Corporation for a term of seven years. He would succeed Robert F. Gambino.

Mr. Miller is currently Director of Investigations, U.S. Synthetic Fuels Corporation. Previously he was a consultant on the staff of the Assistant to the Chairman of the Board of Directors for Inspections and Internal Audit at the U.S. Synthetic Fuels Corporation (1981-82) and was engaged in residential real estate sales work in 1979-1980. He retired in 1979 as a senior officer after 29 years in the Central Intelligence Agency, where he served as chief of field units abroad responsible to the U.S. Ambassador and to CIA headquarters in Washington.

Mr. Miller graduated from the University of Iowa (B.A., 1943) and Drake University College of Law (LL.B., 1950). He attended the Georgetown University School of Foreign Service (1946). He is married, has four children and resides in Potomac, Maryland. He was born October 25, 1921 in Panora, Iowa.

# # #

UNITED STATES SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Miller (LAST) Russell (FIRST) Flynn (OTHER)

Position to which nominated: Deputy Inspector General U.S. Synthetic Fuels Corporation

Date of nomination: 13 May 1985

Date of birth: 25 October 1921 (DAY) (MONTH) (YEAR)

Place of birth: Panora, Iowa

Marital status: Married

Full name of spouse: Charlette Andree Miller

Name and ages of children: Linda Miller - 31; Stephen K. Miller - 18; Laura J. Wellington - 29; Sandra L. Moore - 28

Education:

Institution	Dates attended	Degrees received	Dates of degrees
University of Iowa	1939 - 1943	B.A.	May 1943
Georgetown University	1946	NONE	NONE
Univ. of Iowa - College of Law	1947 - 1948	NONE	NONE
Drake University - College of Law	1948 - 1950	LLB	January 1950

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

U.S. War Department-Logistics Assistant-Algiers, Algeria 1946-1947

Central Intelligence Agency-Intelligence Operations Officer-1950-1979

Shannon & Luchs -Real Estate Sales - Potomac, Maryland 1979-1980

Bush for President Campaign-Admin/Finance-Silver Spring, Maryland and Alexandria, Virginia - December 1979 - June 1980

Marylanders for Mathias - General campaign duties - Silver Spring, Maryland - July - November 1980

Reagan-Bush Campaign - Operations Officer - Arlington, Virginia Headquarters - August-November 1980

Employment record—Continued

Presidential Transition Headquarters-Washington, D.C.-November 1980 - January 1981 (Unofficial member, U.S. Synthetic Fuels Corp. transition team)

U.S. Synthetic Fuels Corporation - Consultant - February 1981-July 1982

U.S. Synthetic Fuels Corporation - Director of Investigations - August 1982 - present

Military service: **Describe any military service not listed above, including dates, rank, and type of discharge.**

1943-1945 1st Lt.-A.U.S. (Active duty WWII) - Honorable Discharge

1946-1967 Captain - Lt. Colonel U.S.A.R. (Active and Reserve Duty) - Honorable Discharge

1968 - Present Lt. Colonel (retired)

Honors and awards: **List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.**

Silver Star	EAME Campaign Medal
Purple Heart	National Defense Service Medal
Bronze Star (valor)	CIA Intelligence Medal of Merit - twice
Distinguished Unit Citation	
Combat Infantryman's Badge	Parachutist Badge

Memberships: **List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.**

Organization	Dates	Office held (if any)
CIA Retirees Assn.	1979 - present	
Member of the Iowa Bar	1950 - present	
Member of the D.C. Bar	1968 - present	
Member of the Bar, U.S. Court of Appeals, District of Columbia	1969 - present	
Phi Alpha Delta legal fraternity	1948 - 1951	
President's Club, G. Washington University	1978 - present	
Fox Hills Civic Assn.	1972 - present	
517 Parachute Regimental Combat Team Assn.	1974 - present	
National "I" Lettermen's Club	1977 - present	

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written.

Various articles, sports and general news, for North Des Moines High School "Oracle" newspaper and Year Books 1937 - 1938.

Future employment relationships:

1. Will you sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate?

No. I would continue working in the Office of the Inspector General, U.S. Synthetic Fuels Corporation.

2. Do you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization?

No

3. Has a commitment for employment after you leave government been made to you by anyone? Have you made any such commitment?

No

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

Yes

Future employment relationships—Continued

(b) If you have been appointed for an indefinite term, are there any known limitations on your willingness or ability to serve for the foreseeable future?

Not applicable. My term would be for 7 years.

Financial statement:

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).

(attached)

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

Federal government and military service retirement annuities.

3. Are you currently a party to any legal action? If so, describe its nature and status.

No

4. Have you ever declared bankruptcy? If so, describe the circumstances.

No

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain.

Yes

6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

No

Potential conflicts of interest:

1. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

None

2. Describe any business relationship, dealing or financial transaction (other than taxpaying) that you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, which might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

None

3. Describe any lobbying activity which you have performed during the past 10 years with respect to legislative or administrative actions at the Federal, State or local level.

None

4. Have you been informed of the conflict of interest laws and regulations applicable to the position to which you have been nominated?

Yes

Potential conflicts of interest—Continued

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to this form and the attachments thereto. Attach a statement of the appropriate agency ethics official explaining the applicable laws or regulations, any potential conflicts, and the action required to resolve such conflicts.

I do not have any potential conflict of interest with respect to my responses above. (Attached is a letter from Ethics Officer addressed to the Office of Government Ethics.)

6. Explain how you will resolve any potential conflicts of interest that may arise in the future if you are confirmed for the position for which you have been nominated.

I will take whatever action is necessary or appropriate to resolve any such potential conflict of interest.

Public disclosure: Do you have any objections to this form and the attachments thereto being made public?

No objection.

AFFIDAVIT

I, Russell F. Miller, being duly sworn, hereby state that I have read the foregoing Statement for Completion by Presidential Nominees, including all attachments thereto, and that the information provided therein is, to the best of my knowledge and belief, current, accurate, and complete.

Russell F. Miller
(Signature of Nominee)

Subscribed and sworn to before me this 11th day of July, 1985

C. Kay Hayes
(Notary Public)

My Commission Expires June 15, 1988

Form approved by the Committee February 5, 1985.

U.S. GOVERNMENT PRINTING OFFICE: 1985—43-095

United States Synthetic Fuels Corporation

2121 K Street, N.W. Washington, District of Columbia 20586 Telephone (202) 822-6600

19 July 1985

The Honorable James A. McClure
Chairman
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Please be advised that pursuant to section 201(b) of the Ethics in Government Act of 1978, as amended, I have informed the appropriate ethics officials that the information required by section 202(a) (1) (A) with respect to income and honoraria is current as of 19 July 1985.

Sincerely yours,

Russell F. Miller

Russell F. Miller

District of Columbia ss

****Subscribed and sworn to before me this -19th- day of July, 1985, for-------
----------Russell F. Miller ONLY.**********----------

Notary Public

exp. Jan. 31, 1989

cc: The Honorable J. Bennett Johnston

United States Synthetic Fuels Corporation
2121 K Street, N.W. Washington, District of Columbia 20586 Telephone (202) 822-6600

July 11, 1985

Mr. David H. Martin
Director, Office of Government Ethics
Office of Personnel Management
P. O. Box 14108
Washington, D.C. 20044

Dear Mr. Martin:

This will supplement my letter to you dated May 17, 1985, discussing my review of the Financial Disclosure Report (SF-278) submitted by Russell F. Miller and forwarded to you. The Senate Committee on Energy and Natural Resources has scheduled a hearing for July 17, 1985, on Mr. Miller's nomination to be Deputy Inspector General of the United States Synthetic Fuels Corporation.

In my May 17, 1985 letter, I noted that we were awaiting action by our Board of Directors on a revision to the Policy on Standards of Conduct. The revision, which was approved by your office, was necessary to bring the Policy into conformance with Executive Order 11222, consistent with new section 117(f) of the Energy Security Act as added by section 101(c) of Pub. L. 98-473, the Continuing Resolution making appropriations for fiscal year 1985.

Our Board has now approved the revised Policy. Mr. Miller advises me that there has been no change in the information contained in the financial disclosure statement previously submitted. Based on the information presently available to me, it is my opinion that Mr. Miller will be in compliance from a conflicts of interest standpoint with the revised Policy when promulgated. I so certify.

If I can be of further assistance in this matter, please let me know.

Sincerely,

John W. Roberts, Jr.
Acting Ethics Officer

United States of America
Office of Government Ethics

Office of Personnel Management
Washington, D.C. 20415

SENATE COMMITTEE ON
ENERGY AND NATURAL RESOURCES
RECEIVED
WASHINGTON, D.C. 20510

Honorable James A. McClure
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Russell F. Miller, who has been nominated by President Reagan for the position of Deputy Inspector General of the United States Synthetic Fuels Corporation.

We have reviewed the report and have also obtained advice from the Synthetic Fuels Corporation concerning any possible conflict in light of the Corporation's functions and the nominee's proposed duties. Based thereon, we believe that Mr. Miller is in compliance with the provisions of the Energy Security Act and the Corporation's policy governing conflicts of interest.

Sincerely,

David H. Martin
Director

Enclosure

United States Synthetic Fuels Corporation
2121 K Street, N.W. Washington, District of Columbia 20566 Telephone (202) 822-6600

May 17, 1985

Mr. David H. Martin
Director, Office of Government Ethics
Office of Personnel Management
1717 H Street, N. W.
Washington, D.C. 20044

Dear Mr. Martin:

The President has announced his intention to nominate Russell F. Miller to be Deputy Inspector General of the United States Synthetic Fuels Corporation, subject to confirmation by the Senate. The position in question was created by Section 122(a)(3) of the Energy Security Act (the "Act") (Pub. L. 96-294). The duties and obligations of the Deputy Inspector General are generally to assist and, in stated circumstances to act for the Inspector General, whose appointment and duties are provided for elsewhere in Section 122. No other position description is available. A completed Financial Disclosure Report (SF-278) signed by Mr. Miller is forwarded herewith. As the Corporation's acting ethics officer, I have reviewed Mr. Miller's report in the context of the conflict of interest provisions of the Act and the Policy on Standards of Conduct approved by the Corporation's Board of Directors on February 16, 1984. This letter is addressed to you in compliance with Section 734.604(c)(iii) of the regulation governing the review of executive personnel financial disclosure reports.

The conflict of interest provisions applicable to Corporation personnel are set forth in Section 118 of the Energy Security Act and in the aforementioned policy. As you know, we are awaiting action by our Board of Directors on a revision to the policy necessitated by Section 101(c) of Pub. L. 98-473, the Continuing Resolution making appropriations for fiscal year 1985. This legislation added a new Section 117(f) to the Energy Security Act, providing that subject to Section 118 of the Energy Security Act, directors, officers, and employees of the Corporation shall be subject to the same standards of ethical conduct and financial reporting as are set forth in Executive Order 11222. The revised policy has been approved by your office. Section 118 of the Act makes applicable to the directors of the Corporation and certain other employees the financial disclosure provisions of Title II of the Ethics in Government Act of 1978 that apply to individuals occupying positions compensated under the Executive Schedule. The Deputy Inspector General position will, by virtue of Section 122(a)(3) of the Energy Security Act, be compensated at not less than the rate for level IV of the Executive Schedule.

Mr. David H. Martin
May 17, 1985
Page 2

Section 118 of the Act makes applicable to former directors, officers and all other employees of the Corporation the post-employment restriction contained in 18 U.S.C. 207(a) as if they were officers and employees of the executive branch of the United States Government. Section 207(a) prohibits permanently any such person from representing any party other than the United States with respect to any particular matter in which that person, during his Corporation service, participated personally and substantially on behalf of the United States.

A principal focus of the Corporation's Policy, which applies to all Corporation personnel, is on employee financial interests in participating organizations, i.e., any organization or organizations undertaking a project involving the Corporation or formally proposing to undertake such a project. The term also includes other entities participating in such projects in a material way such as project-related financial institutions, investment bankers, and key construction, engineering, and other firms. A financial interest includes securities, partnership interests, or any right to receive financial benefits from such an organization, which is owned by the employee, spouse, or dependent child. The Corporation's policy does not require the divesture of such interests acquired prior to joining the Corporation, but prohibits the acquisition of any such interests while one is employed by the Corporation.

Based on my review, it is my opinion that Mr. Miller's report evidences no conflict of interest under applicable laws and regulations. I so certify.

If I can be of further assistance in this matter, please let me know.

Sincerely,

John W. Roberts

John W. Roberts, Jr.
Acting Ethics Officer

Enclosure

X

MAY 14 1985 MAY 17 1985

Miller Russell F.

Deputy Inspector General U. S. Synthetic Fuels Corporation

Office of the Inspector General, U. S. Synthetic Fuels Corporation, 2121 K Street, N.W. Washington D. C. 20586 566 202-822-6388

U. S. Senate Committee on Energy and Natural Resources X No

Director of Investigations, Office of the Inspector General, United States Synthetic Fuels Corporation; 1 August 1982 to present.

Russell F Miller February 6, 1985

John W Robert Jr. - Acting Ethics Officer May 17, 1985

David H Mark 5-22-85

Comment Ethics Use Only

INCOME AND INTERESTS IN PROPERTY

This schedule is applicable in the case of all reporting individuals

	Yes	No
Did you, your spouse, or dependent child receive income from, or have a beneficial interest in a trust?		X
If yes, have you reported the income from the trust?		
If yes, have you reported the assets of the trust?		
If "yes" is the trust a "blind" trust? (Yes / No) or "qualified" trust?		

	Yes	No
Are there any interests in property, purchases, sales, or exchanges, or liabilities of a spouse or dependent child which you have not reported?		X

If "Yes," do you certify to all of the following:

1. They represent solely your spouse's or dependent child's financial interest or responsibility.
2. They are not, in any way, past or present derived from your income, assets, or activities.
3. You neither derive, nor expect to derive, any financial or economic benefit from them, and
4. You do not have knowledge as to the composition of such interest or liabilities.

	Yes	No

Page Number	2	Schedule A

Reporting Individual's Name: Russell F. Miller

Agency Use Only

Date of Filing (Month, Day, Year)

	Identification	Income: Type of Income (✓) Dividends	Rent	Interest	Capital Gains	Excepted Trust	Other Trust	Other (Specify)	Category of Amount or Value (✓)									Actual Amount (Only if Other Specified)	Date (Mo., Day, Yr.) (Only if Honoraria)	Interests in Property: Valuation of Assets (✓) Valuation Method	$1,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000
	Drexel Burnham & Lambert (DBL Fund)			X						X										H		X			
	International Banknote common (ASE)	X									X									H				X	
	Elsinore Corporation common								X											H				X	
	IRA account with Capital City Federal Savings & Loan, WashingtonDC								X											H			X		
	Northwest Federal Credit Union, Vienna, Va.			X								X								H			X		
	Chevy Chase Savings & Loan, Chevy Chase, Md.			X									X							H				X	
S	Franklin Life Insurance Co. Springfield, Illinois			X						X										H		X			
S	New York Life Insurance Co. New York, N.Y.			X						X										H		X			
	National Service Life Insurance, Ft. Snelling, Minnesota								X											H		X			
S	Greater Ohio Housing Assistance Corp								X											H	X				
DC	International Banknote common (ASE)	X							X											H		X			

"NOMINEE" - NOT APPLICABLE

4 C

Russell F. Miller

"NOMINEE" — NOT APPLICABLE

NOT APPLICABLE

Value

NOT APPLICABLE

Value

Russell F. Miller

February 6, 1985

Northwest Federal Credit Union, 1021 Electric Avenue, Vienna, Va.	About April 15, 1983, 9% over 5 year term(car loans)			X
New York Life Insurance Co. New York, N.Y.	Borrowed on life insurance policy at 5% rate of interest for an indefinite term			X
U.S.Synthetic Fuels Corp., 2121 K St NW, Washington D. C.	Quasi-government (funded by U.S.Treasury)	Director of Investigations	1 August 1982	Present time

NONE

RELATIONS WITH OTHER EMPLOYERS

NONE

William P. Horn

William P. Horn serves as Deputy Under Secretary of the Department of the Interior. His primary responsibilities are coordinating and directing the Department's Alaska-related programs, serving as Chief Coordinator of Negotiations for the Indian Water Claims Task Force, and sitting as Chairman of the Great Lakes Fisheries Commission.

He has previously held positions in Interior under Secretary Kleppe, at the Department of Commerce under Secretary Morton, and served on Congressional staffs with the House Republican Conference and on the House Interior Committee. All of these positions have involved natural resource management issues.

Horn, 34, is a 1972 honors graduate of the American University, Washington, D.C. and also received his J. D. from the same institution in 1983. He is married to Susan E. Shekmar, formerly of Haverford, Pa. and they have two children.

UNITED STATES SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: HORN (LAST) William (FIRST) Pierce (OTHER)

Position to which nominated: Assistant Secretary Fish and Wildlife and Parks

Date of nomination: June 21, 1985

Date of birth: 16 (DAY) 12 (MONTH) 50 (YEAR)

Place of birth: Dover, Delaware

Marital status: Married

Full name of spouse: Susan Elizabeth Shekmar

Name and ages of children: Michael William 2 years; Alexander James 6 months

Education:

Institution	Dates attended	Degrees received	Dates of degrees
Washington College of Law--American Univ.	8-79/5-83	J.D.	1983
American University Washington, D.C.	9-68/5-72	B. A.	1972
Summit High School Summit, New Jersey	9-65/6/68	High School Diploma	1968

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

1. Deputy Under Secretary. Primary responsibilities include (1) direction and coordination of all Alaska programs, (2) serving as Chief Negotiator for the Dept. on Indian water claims and fishing disputes, and (3) serving on the International Great Lakes Fishery Commission, presently serving as Chairman (per appointment by the President). January 1981 -
2. Minority Consultant, Committee on Interior and Insular Affairs, U.S. House of Representatives. Handled the Alaska lands issues for Interior Committee Republicans. Also periodically detailed to Sen. Stevens (R-Ak.) to assist on lands issues. January 1977 - January 1981.
3. Special Assistant to the Assistant Secretary--Land and Water Resources U.S. Department of the Interior. Served as an assistant covering policy for offshore oil and gas development, Federal coal management, and Alaskan oil and gas matters. February 1976 - January 1977.
4. Special Assistant to the Secretary of Commerce. Served Secretary Rogers C. B. Morton in his capacity as Chairman of the President's Energy Resources Council. Work involved all aspects of energy policy development and implementation within the Administration. June 1975 - January 1976.

Employment record—Continued

5. Acting Executive Director, House Republican Conference, U.S. Congress. Served for a four month appointment in 1975. Responsibilities involved management of the Conference staff, staff work for the House GOP leadership, and development of legislative issues and materials for House Republicans. Previously served as the Energy and Resources assistant on the staff. September 1972 - June 1975.

Military service — Describe any military service not listed above, including dates, rank, and type of discharge

N/A

Honors and awards — List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement

U.S. Dept. of Interior Outstanding Service Award, 1985.

International Academy of Trial Lawyers Advocacy Award, Washington College of Law, 1983.

Names an Outstanding Young Man by Jaycees, 1975.

Member, Omicron Delta Kappa, Academic/Service Honorary 197

Member, Pi Sigma Alpha, Political Science Honorary, 1972.

Memberships — List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations

Organization	Dates	Office held (if any)
Trout Unlimited	1969 - Present	President-D.C. Chapter 1977-78.
Ruffed Grouse Society	1981 - Present	-
Ducks Unlimited	1984 - Present	-
D. C. Bar	1983 - Present	-
American Bar Association	1983 - Present	-

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written.

N/A

Future employment relationships: 1. Will you sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate?

Presently work in the Department of the Interior.

2. Do you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization?

No

3. Has a commitment for employment after you leave government been made to you by anyone? Have you made any such commitment?

No

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

N/A

Future employment relationships—Continued

(b) If you have been appointed for an indefinite term, are there any known limitations on your willingness or ability to serve for the foreseeable future?

No

Financial statement:

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

All investments presently owned by me and/or by my wife are listed in attached SF 278. None of such investments nor any obligations are believed to involve potential conflicts of interest. In view of my commitments set forth in attached Exhibit 3, no relationships are believed to involve potential conflicts of interests.

3. Are you currently a party to any legal action? If so, describe its nature and status.

Named as defendant in my official capacity as Deputy Under Secretary in Audobon Society, et al.v. Watt; the suit concerned a land exchange involving a wildlife Refuge and three native corporations in Alaska. I was also deposed in my official capacity in April 1985 on an aspect of U.S. v. Michigan, a case concerning Indian Fishing righ

4. Have you ever declared bankruptcy? If so, describe the circumstances.

No

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain.

Yes

6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

No

Potential conflicts of interest:

1. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

None

2. Describe any business relationship, dealing or financial transaction (other than taxpaying) that you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, which might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

None

3. Describe any lobbying activity which you have performed during the past 10 years with respect to legislative or administrative actions at the Federal, State or local level.

None

4. Have you been informed of the conflict of interest laws and regulations applicable to the position to which you have been nominated?

Yes

Potential conflicts of interest—Continued

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to this form and the attachments thereto. Attach a statement of the appropriate agency ethics official explaining the applicable laws or regulations, any potential conflicts, and the action required to resolve such conflicts.

N/A

6. Explain how you will resolve any potential conflicts of interest that may arise in the future if you are confirmed for the position for which you have been nominated.

It is unlikely that any would arise but the avoidance of such conflicts or the appearance of conflicts is extremely important. I would take actions to ensure that my conduct in office is above reproach.

Public disclosure. Do you have any objections to this form and the attachments thereto being made public?

No

AFFIDAVIT

I, William P. Horn, being duly sworn, hereby state that I have read the foregoing Statement for Completion by Presidential Nominees, including all attachments thereto, and that the information provided therein is, to the best of my knowledge and belief, current, accurate, and complete.

(Signature of Nominee)

Subscribed and sworn to before me this day of 19

Notary Public

My Commission Expires April 30, 1988

Form approved by the Committee February 5, 1985.

U.S. GOVERNMENT PRINTING OFFICE: 1985—43-095

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

July 19, 1985

The Honorable James A. McClure
Chairman
Committee on Energy and
Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Pursuant to Section 201(b) of the Ethics in Goverment Act of 1978, as amended, I hereby certify and report that the information required by Section 202(a)(1)(A) with respect to earned income and honoraria, as set forth in my Financial Disclosure Report (SF 278) dated May 15, 1985, is current as of July 19, 1985. I further certify that I have transmitted copies of this report to the Designated Agency Ethics Official of the Department of the Interior and to the Office of Government Ethics.

WILLIAM P. HORN

Washington)
District of Columbia)ss

Subscribed and sworn before me on this 19th day of July, 1985.

Notary Public

My commission expires:

cc:
The Honorable J. Bennett Johnston

United States of America
Office of Government Ethics

Office of Personnel Management
P.O. Box 14108
Washington, D.C. 20044

JAN 27 1985

Honorable James A. McClure
Chairman, Committee on Energy and
Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by William P. Horn, who has been nominated by President Reagan for the position of Assistant Secretary - Fish and Wildlife and Parks, Department of the Interior.

We have reviewed the report and have also obtained advice from the Department of Interior concerning any possible conflict in light of the Department's functions and the nominee's proposed duties. Based thereon, we believe that Mr. Horn is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

David H. Martin
DEC

David H. Martin
Director

Enclosure

Mr. David H. Martin
Director, Office of Government Ethics
Office of Personnel Management
P. O. Box 14108
Washington, D.C. 20044

Dear Mr. Martin:

The enclosed financial disclosure report filed by Mr. William P. Horn for the position of Assistant Secretary - Fish and Wildlife and Parks, U.S. Department of the Interior has been reviewed in compliance with 5 CFR §734.604(a). In addition to the standard conflict of interest prohibitions in 18 U.S.C. §§201-209, the Assistant Secretary - Fish and Wildlife and Parks is also subject to several prohibitions that apply only to employees in our Department. These additional prohibitions are 18 U.S.C. §437; 30 U.S.C. §6; 30 U.S.C. §1211(f); 43 U.S.C. §11 and 43 U.S.C. §31a. Except for 30 U.S.C. §1211(f), the provisions of each of these statutes is extended to the Assistant Secretary - Fish and Wildlife and Parks by Department regulations in 43 CFR Part 20. The provisions of 30 U.S.C. §1211(f) apply directly to all Federal employees, including the Assistant Secretary - Fish and Wildlife and Parks, U.S. Department of the Interior, who perform functions under the Surface Mining Control and Reclamation Act of 1977.

I have compared each reported interest to the provisions cited and I have determined that the information discloses no conflict of interest under the applicable statutes and regulations.

The Templeton Trust, a well diversified mutual fund, and the Merrill Lynch Ready Assets Fund, a short-term money-market securities fund are not personally managed by Mr. Horn. Also, the Individual Retirement Accounts consist of certificates of deposit offered by the Sovran Bank.

My review of the other items reported by Mr. Horn reveals no problems with any applicable conflict of interest statutes or regulations. Please call me at 343-6182 should you have any questions.

Sincerely,

(Sgd.) Richard R. Hite

Richard R. Hite
Principal Deputy Assistant Secretary
Policy, Budget and Administration
and Designated Agency Ethics Official

Enclosure
cc:
Mr. Horn
Mr. Hite - PBA
Mr. Garrett - WH
Ms. Horn - SOL/GL

bcc:
Chron
Pile

PBA:GPeone:ddw:343-5016:05:15:85:

SF 278 (Rev. 9-91)
FPM Chapter 735
U.S. Office of Personnel Management

FINANCIAL DISCLOSURE REPORT

Form Approved
OMB No. 3209-0001

Page 1

Reporting Status (Check Appropriate Box)	NOTE
☐ Incumbent ☒ New Entrant, Nominee, or Candidate ☐ Termination Report	All schedules must be filed. Enter "None" in areas or across schedules where appropriate.

Agency Use Only	OGE Use Only
Date DEPT. OF THE INTERIOR RECEIVED MAY 15 1985 ETHICS OFFICE	

Reporting Individual's Name	Last Name: HORN	First Name and Middle Initial: WILLIAM P.	Date of Appointment, Candidacy, Election or Nomination (Mo., Day, Yr.):	Termination Date (If Applicable) (Month, Day, Year):
Position for Which Filing	Title of Position: Assistant Secretary - Fish and Wildlife and Parks	Department or Agency (If Applicable): Department of the Interior		
Location of Present Office	Address (Number, Street, City, State and Zip Code): 18th & "C" Streets, N.W., Washington, D.C. 20240		Room Number: 6124	Telephone No. (Include Area Code): (202) 343-5183

Presidential Nominees Subject to Senate Confirmation	Name of Congressional Committee Considering Nomination: Senate Energy and Natural Resources & Senate Environ. & Public Works	Do You Intend to Create a Qualified Diversified Trust? ☐ Yes ☒ No

Position(s) Held With the Federal Government During the Preceding 12 Months (If Not Same as Above)	Title of Position(s) and Date(s) Held: Deputy Under Secretary, U.S. Department of the Interior - March 16, 1981 to the Present Time.

Certification: I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge and belief.	Signature of Reporting Individual: William P Horn	Date (Month, Day, Year): 5/15/85
Agency Ethics Official's Opinion: The information contained in this report discloses no conflict of interest under applicable laws and regulations.	Signature of Designated Agency Ethics Official/Reviewing Official: Richard White	Date (Month, Day, Year): 5-15-85
Office of Government Ethics Use Only	Signature	Date (Month, Day, Year):

Agency Ethics Officials (If additional space is required, use the reverse side of this sheet)

SF 278—Financial Disclosure Report
Rev. 6/89

INCOME AND INTERESTS IN PROPERTY

This schedule is applicable in the case of all reporting individuals

	Yes	No
Do you, your spouse, or dependent child receive income from, or have a beneficial interest in a trust?		X
If "yes", have you reported the income from the trust?		
If "yes", have you reported the assets of the trust?		
If "yes", is this trust an "excepted" trust? ... or "qualified" trust?		

	Yes	No
Are there any interests in property, purchases, sales, or exchanges, or liabilities of a spouse or dependent child which you have not reported?		X
If "Yes," do you certify to all of the following? 1. They represent solely your spouse's or dependent child's financial interest or responsibility; 2. They are not, in any way, past or present, derived from your income, assets, or activities; 3. You neither derive, nor expect to derive, any financial or economic benefit from them; and 4. You do not have knowledge as to the composition of such interest or liabilities.		X

Page Number 2 — Schedule A

Reporting Individual's Name: WILLIAM P. HORN

Agency Use Only

Date of Filing (Month Day Year): MAY 15 1965

Spouse (S) or Dependent Child (DC)	Identification	Income: Type of Income (✓): Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust	Other (Specify)	Category of Amount or Value (✓): None (or less than $101)	$101-$1,000	$1,001-$2,500	$2,501-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	Over $100,000	Actual Amount Only if "Other" or Specified	Date (Mo., Day, Yr.) Only if Honoraria	Interests in Property: Valuation of Assets (✓): Year-end Value	$1,001-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000
	Templeton Trust	X								X									A	X					
	U.S. Senate Credit Union			X						X									H	X					
	Ready Assets Fund (Merrill Lynch)			X						X									A	X					
	VA. State Bonds			X						X									H	X					
	Sovran Bank, Merrifield, VA. Individual Retirement Account			X						X									H		X				
S	Sovran Bank, Merrifield, VA. Individual Retirement Account			X						X									H		X				

PURCHASES, SALES, AND EXCHANGES

This schedule is applicable only in the case of annual and termination reports.

Report Applicable Transactions Even If Also Reported on Schedule A

Page Number 3 | Schedule B

Reporting Individual's Name: WILLIAM P. HORN

Agency Use Only

Date of Filing (Month, Day, Year): MAY 15 1985

ID. or DC	Identification of Property (real and personal)	Type of Transaction: Purchase	Sale	Exchange	Date (Month, Day, Year): Purchase	Sale or Exchange	Category of Amount or Value (✓): $1,001 to $5,000	$5,001 to $15,000	$15,001 to $50,000	$50,001 to $100,000	$100,001 to $250,000	Over $250,000
	House (Personal Residence) 7601 Trail Run Road Falls Church, Virginia 22042		X			August 1984					X	
	House (Personal Residence) 7815 Birnam Wood Drive McLean, Virginia 22102	X				August 1984					X	

SF 278 Financial Disclosure Report
Rev. 6/81

GIFTS AND REIMBURSEMENTS

This schedule is applicable only in the case of annual and termination reports.

Page Number	4	Schedule C

Reporting Individual's Name: WILLIAM P. HORN

Agency Use Only

Date (Filing Month, Day, Year): MAY 15 1985

I. Lodging, Transportation, Food and Entertainment—*List each source totaling $250 or more in value*

S or BC	Source (Name and Address)	Brief Description	Value
	NONE		

II—All Other Gifts—*List each source totaling $100 or more in value*

S or BC	Source (Name and Address)	Brief Description	Value
	NONE		

III Reimbursements—*List each source totaling $250 or more in value*

S	Source (Name and Address)	Brief Description	Value
	NONE		

51-869 C-85——7

SF 278—Financial Disclosure Report (Rev 8/81)

This schedule, except as noted for the third section, is applicable in the case of all reporting individuals.

Reporting Individual's Name	Agency Use Only	Page Number		Schedule
WILLIAM P. HORN	Date Filing (Month, Day, Year) MAY 15 1985		5	D

LIABILITIES

S or DC	Name and Address of Creditor	Type of Liability (e.g., promissory note, margin account) Give date, interest rate and, if applicable, term	Category of Amount or Value (✓) $10,001 to $15,000	$15,001 to $50,000	$50,001 to $100,000	$100,001 to $250,000	Over $250,000
	NONE						

POSITIONS HELD

Name and Address of Organization	Type of Organization	Position Held	From (Mo. Yr.)	To (Mo., Yr.)
Committee on Interior & Insular Affairs U.S. House of Representatives, 1324 HOB, Washington, D.C. 20515	Congressional Committee	Minority Consultant	1/77	1981
U.S. Departmentof the Interior - Office of the Secretary Washington, D.C. 20240	Federal Government	Deputy Under Secretary	3/81	PRESENT

COMPENSATION IN EXCESS OF $5,000 PAID BY ONE SOURCE

This section is applicable only in the case of nominees and new entrants.

Source (Name and Address)	Brief Description of Duties
NONE	

RELATIONS WITH OTHER EMPLOYERS

Description of Terms of Any Agreement or Arrangement	Parties	Date (Mo., Day, Yr.)
NONE		

BIOGRAPHY

Charles A. Trabandt

The President, on June 26, 1985, nominated Charles A. Trabandt to be a Member of the Federal Energy Regulatory Commission for a term expiring October 20, 1988.

Mr. Trabandt is Counsellor to the Controller at the Department of the Interior. He joined the Department of the Interior in 1984 as Executive Assistant to Secretary William P. Clark. Previously, he was on the staff of the U.S. Senate Committee on Energy and Natural Resources, serving as Chief Counsel (1981-1984) and Minority Staff Counsel (1977-1981). He was Minority Counsel for the Energy Research & Development Subcommittee, Committee on Science and Technology in 1975-1977. He was Program Manager for Tetra Tech, Inc., in Arlington, Virginia (1972-1975) and at the Central Intelligence Agency in 1969-1972. He served in the U.S. Navy as a nuclear submarine officer from 1963 to 1969.

He graduated from the U.S. Naval Academy (B.S., 1963) and Georgetown University Law Center (J.D., 1975). He is married to the former Joan Ellen Sibson, has four children and resides in Arlington, Virginia. He was born November 26, 1941 in Baltimore, Maryland.

# # #

UNITED STATES SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Trabandt (LAST) Charles (FIRST) Anthony (OTHER)

Position to which nominated: Commissioner, Federal Energy Regulatory Commission

Date of nomination: June 26, 1985

Date of birth: 25 (DAY) Nov. (MONTH) 1941 (YEAR)

Place of birth: Baltimore, Maryland

Marital status: Married

Full name of spouse: Joan Sibson Trabandt

Name and ages of children: Gregory Miles, 14; Christina Elizabeth, 1; Scott Sibson, 6; Douglas Anthony, 4

Education:

Institution	Dates attended	Degrees received	Dates of degrees
U.S. Naval Academy	1959-1963	B.S.	1963
George Washington Univ.	1969	-	-
Georgetown Univ. Law Sch.	1971-1975	J.D.	1975
Center (Evening Program)			

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

1963-1969, U.S. Navy, Submarine Ofcr., Various locations

1969-1972, C.I.A., Intelligence and Operations Ofcr., Langley, VA

1972-1975, TetraTech, Inc., Program Manager, Arlington, VA

1975-1977, House Science & Technology Cmte., Subcmte, Minority Counsel

1977-1984, Senate Energy & Natural Resources Cmte, Minority Staff Coun: (1977-1980), Chief Counsel (1981-1984)

1984-1985, Department of the Interior, Washington, D.C. Executive Assistant to the Secretary and Counsellor to the Controller

Employment record—Continued

Military service: Describe any military service not listed above, including dates, rank, and type of discharge.

None

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

U.S. Naval Academy - 1962, awarded "Stars" for academic achievement and 1963 selected upon graduation for instructorship in English, History & Government; 1969 - awarded MBA scholarship to Dartmouth College; 1974 - Georgetown Law Center - Editor, Law and Policy in International Business (International Law Journal); 1965 and 1966 U.S. Navy - American Expeditionary Force Vietnam Medal; 1981 - Presidential Commendation for Exemplary Service during the Presidential Transition

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Dates	Office held (if any)
Phi Delta Phi Legal Fraternity	1974-1976	

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written.

Georgetown University Law Center, Law and Policy in International Business; assisted in preparation or edited various pieces as a member of the international law journal staff; authored legislative development article on the Intervention on the High Seas Act of 1974.

Future employment relationships:

1. Will you sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate?

Yes

2. Do you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization?

No

3. Has a commitment for employment after you leave government been made to you by anyone? Have you made any such commitment?

No

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

Yes

Future employment relationships—Continued

(b) If you have been appointed for an indefinite term, are there any known limitations on your willingness or ability to serve for the foreseeable future?

Financial statement

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

None

3. Are you currently a party to any legal action? If so, describe its nature and status.

No

4. Have you ever declared bankruptcy? If so, describe the circumstances.

No

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain.

Yes

6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

Yes, 1977 return audited with regard to the deduction for my wife's employment--required Ph.D. studies--additional tax paid.

Potential conflicts of interest:

1. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

I am a co-trustee with a remainderman interest in my Mother's intervivos trust. My Mother, the family attorney and I have agreed that the trust will not invest in any security, which would constitut a conflict of interest. Currently, the Trust only includes bank CD's and money market accounts.

2. Describe any business relationship, dealing or financial transaction (other than taxpaying) that you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, which might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

None

3. Describe any lobbying activity which you have performed during the past 10 years with respect to legislative or administrative actions at the Federal, State or local level.

None

4. Have you been informed of the conflict of interest laws and regulations applicable to the position to which you have been nominated?

Yes

Potential conflicts of interest—Continued

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to this form and the attachments thereto. Attach a statement of the appropriate agency ethics official explaining the applicable laws or regulations, any potential conflicts, and the action required to resolve such conflicts.

Please see answer to question (1) above.

6. Explain how you will resolve any potential conflicts of interest that may arise in the future if you are confirmed for the position for which you have been nominated.

It is my intention to comply fully with all applicable conflict of interest laws and regulations and to seek and follow the counsel of the FERC Ethics Officer.

Public disclosure. Do you have any objections to this form and the attachments thereto being made public?

No.

AFFIDAVIT

I, Charles A. Trabandt, being duly sworn, hereby state that I have read the foregoing Statement for Completion by Presidential Nominees, including all attachments thereto, and that the information provided therein is, to the best of my knowledge and belief, current, accurate, and complete.

Charles A. Trabandt
(Signature of Nominee)

Subscribed and sworn to before me this 10th day of July, 19 85

Barbara Dudl
Notary Public

My Commission expires March 30, 1986

Form approved by the Committee February 5, 1985.

U.S. GOVERNMENT PRINTING OFFICE 1985—43-095

51-869 O—85——8

July 19, 1985

The Honorable James A. McClure
Chairman
Committee on Energy and
Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Please be advised that pursuant to section 201(b) of the Ethics in Government Act of 1978, as amended, I have informed the appropriate ethics officials that the information required by section 202(a)(1)(A) with respect to income and honoraria is current as of July 19, 1985.

Sincerely,

Charles A. Trabandt

Charles A. Trabandt

_____ss

Subscribed and sworn to before me this 19 day of July, 1985.

Mary L. Drenkay
Notary Public

cc: The Honorable J. Bennett Johnston

United States of America
Office of Government Ethics

Office of Personnel Management
Washington, D.C. 20415

SENATE COMMITTEE ON
ENERGY AND NATURAL RESOURCES
RECEIVED
JUL 9
WASHINGTON, D.C. 20510

Honorable James A. McClure
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Charles A. Trabandt, who has been nominated by President Reagan for the position of Commissioner, Federal Energy Regulatory Commission, Department of Energy.

We have reviewed the report and have also obtained advice from the Department of Energy concerning any possible conflict in light of the Department's functions and the nominee's proposed duties. Based thereon, we believe that Mr. Trabandt is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

David H. Martin
Director

Enclosure

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

JUN 28 1985

Mr. Charles A. Trabandt
Counselor to the Controller
Department of the Interior
18th & C Streets, N.W.
Washington, D.C. 20240

Dear Mr. Trabandt:

This letter serves as the statement from the Designated Agency Ethics Counselor of this Commission required by question six (page five) of the Statement for Completion by Presidential Nominees that you are submitting to the United States Senate Committee on Energy and Natural Resources. I have reviewed your Standard Form 278 (Financial Disclosure Report), dated April 4, 1985, and have issued my opinion to David H. Martin, Director, Office of Government Ethics, that the Form discloses no conflicts of interest under the Department of Energy Organization Act (DOE Act), P. L. 95-91, the Commission's Standards of Conduct (18 C.F.R. §§ 3c.201-206) or the conflict of interest provisions generally applicable to Federal Government officials.

Section 602(a) of the DOE Act prohibits supervisory employees from knowingly receiving compensation from, holding any official relation with, or having any pecuniary interest in any energy concern. The term "energy concern" is defined in Section 601(b) of the DOE Act to include any entity "significantly engaged in the business" of energy development, extraction, production, refining, transportation, distribution or sale, or significantly engaged in conducting research and development related to these activities, or in research, development or demonstration under a DOE-funded program. The term also includes any entity holding an interest in property from which coal, natural gas, crude oil, nuclear material or a renewable resource is commercially produced or obtained.

Further, Section 208, Title 18, United States Code, and applicable Commission regulations, 18 C.F.R. § 3c.204(b)(3), prohibit a government official from participating personally and substantially in any particular matter in which he, his spouse, minor child, partner, or organization in which he is serving as officer, director, trustee, partner, or employee, has a financial interest, or in which a prospective employer has a financial interest. This provision has been interpreted to prohibit participation in any particular matter whose effect on the relevant financial interest would be direct and predictable.

If I may be of further assistance, please let me know.

Sincerely,

Michael Schopf
Associate General Counsel
Enforcement & General Law

Enclosure

cc: Senate Committee on
Energy and Natural Resources

FINANCIAL DISCLOSURE REPORT

JL

Report Required (Check Appropriate Box)	☐ Incumbent ☒ New Entrant, Nominee or Candidate ☐ Termination Report	NOTE: All schedules must be filled. Enter "None" in areas or across schedules where inapplicable.	Agency Use Only: Date of Filing (Month, Day, Year)
			OGE Use Only

Reporting Individual's Name	Last Name: TRABANDT	First Name and Middle Initial: CHARLES A.	Date of Appointment, Candidacy, Election, or Nomination (Mo., Day, Yr.)	Termination Date (If Applicable) (Month, Day, Year)
Position for Which Filing	Title of Position: COMMISSIONER	Department or Agency (If Applicable): Federal Energy Regulatory Commission Department of Energy		
Location of Present Office	Address (Number, Street, City, State and Zip Code): Dept of Interior, 18th & C Streets, N.W., Room 7356, Washington, D.C. 20240		Room Number	Telephone No. (Include Area Code): 202-343-5975

Presidential Nominees Subject to Senate Confirmation	Name of Congressional Committee Considering Nomination: Energy and Natural Resources Committee	Do You Intend to Create a Qualified Diversified Trust? ☐ Yes ☒ No

Positions Held With the Federal Government During the Preceding 12 Months (If Not Same as Above)	Title of Positions and Dates Held: 1) Chief Counsel, Energy and Natural Resources Committee, U.S. Senate, January 1981 to Dec 1, 1984 2) Assistant to the Secretary, Department of the Interior, Dec 1984 to Present

Certification: I certify that the statements I have made in this form are true, complete and correct to the best of my knowledge and belief.	Signature of Reporting Individual: Charles A. Trabandt	Date (Month, Day, Year): April 4, 1985
Agency Ethics Official's Opinion: The information contained in this report discloses no conflict of interest under applicable laws and regulations.	Signature of Designated Agency Ethics Official/Reviewing Official: [signature]	Date (Month, Day, Year): 6/28/85
Office of Government Ethics Use Only	Signature	Date (Month, Day, Year)

Comments of Reviewing Officials (If additional space is required, use the reverse side of this sheet)

202

INCOME AND INTERESTS IN PROPERTY

This schedule is applicable in the case of all reporting individuals

	Yes	No
Do you, your spouse, or dependent child receive income from, or have a beneficial interest in a trust? Beneficial Interest, Ruth Elizabeth Trabandt Trust	X	
If "yes", have you reported the income from the trust?		X
If "yes", have you reported the assets of the trust?	X	
If "yes", is this trust an "excepted" trust?		X
or "qualified" trust?		X

Are there any interests in property, purchases, sales, or exchanges, or liabilities of a spouse or dependent child which you have not reported? — Yes: | No: X

If "Yes," do you certify to all of the following?
1. They represent solely your spouse's or dependent child's financial interest or responsibility.
2. They are not, in any way, past or present, derived from your income, assets, or activities.
3. You neither derive, nor expect to derive, any financial or economic benefit from them, and
4. You do not have knowledge as to the composition of such interest or liabilities. — Yes: | No:

Page Number 2 — Schedule A

Reporting Individual's Name: Charles A. Trabandt

Agency Use Only

Date of Filing: Month, Day, Year

Spouse (S) or Dependent Child (DC)	Identification	Income: Type of Income (✓): Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust	Other (Specify)	Category of Amount or Value (✓): [illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	Actual Amount (Only if Other Specified)	Date (Mo., Day, Yr.) (Only if Honoraria)	Interests in Property: Valuation of Assets (✓): [illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
S	Northern Virginia Community College							Salary																	
	Brookings Institution, Speech							Honorarium									$200	2/3/84							
Jnt W/S	First Virginia Bank CD's			X							X								H		X				
"	First Virginia Bank / Interest Bearing Accts			X						X									H		X				
S	First Virginia Bank & United S&L/IRA									X									H		X				
	Ruth Elizabeth Trabandt Trust: Co-trustee with remainderman interest in revocable living trust for my mother, established 1/14/83. Trust includes only bank CD's and Money Market Accounts with following: 1) National Bank & Trust (Michigan) 2) Great Lakes Federal (Michigan) 3) First Federal of Michigan																		H						X

PURCHASES, SALES, AND EXCHANGES

This schedule is applicable only in the case of annual and termination reports.

Page Number	3	Schedule B
Reporting Individual's Name: Charles A. Trabandt		
Agency Use Only		
Date of Filing (Month, Day, Year)		

Report Applicable Transactions, Even if Also Reported on Schedule A

S or DC	Identification of Property (real and personal)	Type of Transaction			Date (Month, Day, Year)		Category of Amount or Value (\$)					
		Purchase	Sale	Exchange	Purchase	Sale or Exchange	\$1,001 to \$5,000	\$5,001 to \$15,000	\$15,001 to \$50,000	\$50,001 to \$100,000	\$100,001 to \$250,000	Over \$250,000
	Not Applicable											

GIFTS AND REIMBURSEMENTS

This schedule is applicable only in the case of annual and termination reports.

Page Number	Schedule
4	C

Reporting Individual's Name: Charles A. Trabandt

Agency Use Only

Date of Filing (Month Day Year)

I. Lodging, Transportation, Food and Entertainment—List each source totaling $250 or more in value

S or DC	Source (Name and Address)	Brief Description	Value
	Not Applicable		

II.—All Other Gifts—List each source totaling $100 or more in value

S or DC	Source (Name and Address)	Brief Description	Value
	Not Applicable		

III. Reimbursements—List each source totaling $250 or more in value

S	Source (Name and Address)	Brief Description	Value
	Not Applicable		

This schedule, except as noted for the third section, is applicable in the case of all reporting individuals.

Reporting Individual's Name	Agency Use Only	Page Number	Schedule
Charles A. Trabandt	Date of Filing (Month, Day, Year)	5	D

LIABILITIES

S or DC	Name and Address of Creditor	Type of Liability (e.g., promissory note, margin account) Give date, interest rate and, if applicable, term	Amount of Liability $50,000 to $100,000	$100,000 to $250,000	$250,000 to $500,000	$500,000 to $1,000,000	Date $250,000
	None						

POSITIONS HELD

Name and Address of Organization	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
Ruth Elizabeth Trabandt Trust	Mother's Revocable Living Trust	Co-Trustee with Mother	January 1983	Present

COMPENSATION IN EXCESS OF $5,000 PAID BY ONE SOURCE

This section is applicable only in the case of nominees and new entrants.

Source (Name and Address)	Brief Description of Duties
None	

RELATIONS WITH OTHER EMPLOYERS

Description of Terms of Any Agreement or Arrangement	Parties	Date (Mo., Day, Yr.)
None		

Appendix II

Responses to Additional Questions From the Nominees

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

July 26, 1985

JUL 26 1985

Honorable James A. McClure
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Enclosed are the questions and answers submitted in response to yesterday's hearing before your committee regarding my nomination as Assistant Secretary for Fish and Wildlife and Parks.

Please contact me if any additional information is required.

Sincerely,

William P. Horn

William P. Horn
Deputy Under Secretary

Enclosures

Response to Question from
Senator McClure:

1. Would you respond to the concerns raised in testimony by the Wilderness Society and Mr. Ted Gianoutsos, specifically with respect to the statements attributed to you and your role with respect to the creation of the Foundation?

Answer: I had no role in the creation of the Fish and Wildlife Foundation and did not participate in any manner in the drafting of the President's statement that accompanied the signing of the Act establishing the Foundation. I am a strong supporter of the Foundation concept and believe that the Fish and Wildlife Foundation will be as helpful to our fish and wildlife resources as the National Park Foundation has been to our National Park System. Any comments I may have made about the President's signing statement would have been to the effect that notwithstanding the reservations expressed in that statement, I was of the opinion that the Department was committed to working with the Foundation to ensure its success.

I addressed the land exchange issues that were the focus of the Wilderness Society presentation during the hearing, particularly in responses to questions posed by Senator Metzenbaum. Moreover, these issues and other Society concerns are addressed in other questions submitted by the Committee for written response.

Response to Question from
Senator Wallop:

2. My question pertains to the recently released report from The Conservation Foundation entitled "National Parks for a New Generation." The report offered several recommendations. I wish to know your opinion on their recommendation to change the Concessions Policy Act of 1965 to require concessionaires to disclose profits and your general overview of the other recommendations pertaining to earmarking of user fees, adding additional parks to the system and the buying of backlog private lands that exist within the parks.

Answer: I have not finished reading the report by The Conservation Foundation. It is my understanding that the National Park Service has not supported amending the Concessions Policy Act to require disclosure of concessionaire profits. User fees, expansion of the System, and dealing with unacquired lands within parks are important issues. I look forward to working with Director Mott on these questions if I am confirmed.

RESPONSE TO QUESTIONS FROM
SENATOR WALLOP:

3. In the State of Wyoming, in particular, much attention has been focused of late to the management of what is being referred to as the "greater Yellowstone ecosystem." Have you at this time formed any policy ideas regarding this particular issue?

Answer: I support the continuation of current efforts at coordination and cooperation in order to protect the grizzly in this area. This is an example of the cooperation that must occur among Federal and State land managers in the Yellowstone area. I intend to implement Under Secretary McLaughlin's conflict resolution approach in the Yellowstone Park area as well as in other units of the Park system.

4. The Wyoming Game and Fish Department is currently seeking joint funding for the FWS for a captive breeding project for the endangered black-footed ferret. What is your view on Federal-State projects to breed endangered species as a technique for maintaining a species? What is the status of the Wyoming request? Would you support joint funding for this project?

Answer: It is entirely appropriate for State agencies and the Fish and Wildlife Service (Service) to fund, jointly, recovery and conservation actions for endangered species and threatened species. Such joint funding is specifically provided for under Section 6 of the Endangered Species Act which establishes a mechanism for development of cooperative agreements between the Service and the respective States. The Service has such an agreement with the State of Wyoming and is presently funding black-footed ferret activities. Subject to the availability of funds, the Service will continue to give high priority to recovery efforts for the ferret, including captive propagation.

5. A couple of years ago, the future of three fish hatcheries, two in Wyoming and one in Utah, were recommended for closure. I ask if you in the future have plans for the reduction in the number of fish hatcheries and if I need to be concerned down the road about the future of Jones Hole National Fish Hatchery in Utah and Beulah and Saratoga in Wyoming?

Answer: There are currently no plans (including the 1986 Interior budget proposal) to close any hatcheries in the National Fish Hatchery System (NFHS). The Jones Hole and Saratoga facilities are integral units of the NFHS and will continue to produce fish in fulfilling Service commitments as defined in its recent policy statement on responsibilities and role.

The Beulah facility in Wyoming has been operating for several years as a Fish Technology Center, primarily on fish nutrition studies in support of the NFHS. The Service is, however, evaluating the feasibility of combining the work at this facility with that at a similar one in Bozeman, Montana. There are preliminary discussions with Wyoming officials regarding the State's interest in operating the Beulah facility; no decisions have yet been made.

Response to Question from
Senator Wallop:

6. During your service as Deputy Undersecretary of the Interior, you have been involved in numerous land exchange negotiations. If confirmed as Assistant Secretary of the Interior for Fish and Wildlife and Parks, will you continue to explore the use of exchange as an alternative to fee acquisition? Who will head up the Department's Task Force on Land Exchanges? Will the Task Force make periodic reports on its activities to the Congress?

Answer: I am strongly committed to innovative forms of land acquisition. As the Land Protection Plans prepared by the Fish and Wildlife and Park Service demonstrate, acquisition of less than the full fee interest frequently will protect the resource values of our Parks and Refuges as well as reduce the costs of land acquisition. I intend to be an active participant in the Department's Task Force on Land Exchanges and would be pleased to chair it if named to do so by the Secretary's office. I expect to consult closely with Congress on our innovative land acquisition efforts.

Response to Questions from
Minority Members:

7. What specific steps, other than the preparation of land protection plans, would you recommend to help eliminate the backlog of authorized but unacquired private lands in national parks?

Answer: Land Protection Plans give us an initial idea of the resources in need of protection, the most cost effective interest to be sought, and in what order to pursue protection within an individual park unit. The next step to be taken is the development of a priority system to determine which resources are in greatest need of protection on a nationwide basis. This will enable the Department to systematically eliminate the most important resources from the backlog of authorized but unacquired lands.

Response to Questions from
Minority Members:

8. In addition to the recommendations of the working group established by Under Secretary McLaughlin, what specific steps would you support to protect national parks from adverse activities on adjacent federal lands?

Answer: The recommendations of the Under Secretary's working group provide a sound basis for protecting park resources from adverse impacts arising from activities on adjacent federal lands. Action plans are being developed within the Services to deal with issues arising from activities that threaten to adversely affect park resources. I am persuaded that these matters can be successfully dealt with on a case-by-case basis. If confirmed, I will work closely with Director Mott and others to maintain the integrity of the National Park System.

Response to Question from
Minority Members:

9. What are your views on the National Park Service Concessions Policy Act of 1965? What role should the private sector play in management and interpretation of our national parks? federal or state agency? [sic]

Answer: The Concessions Policy Act is basically sound. I will continue to support NPS in its administration of this legislation.

The private sector has, and should continue to have, a role in assisting NPS in providing high quality visitor experiences. The cooperative working relationship between NPS and private sector organizations such as concessioners and cooperating associations make it possible to provide a wide range of visitor services and facilities in our parks that would not otherwise be possible.

Response to Question from
Minority Members:

10. What experience have you had in dealing with issues related to historic preservation? What are the major issues facing the historic preservation community today?

Answer: I have had no previous experience with historic preservation issues. After reviewing pertinent materials, however, I believe the following list encompasses the major issues in this field today:

* To bring local governments effectively into the Federal/State partnership in historic and archeological preservation.

* To maintain effective economic incentives for preservation and rehabilitation to be performed primarily through the private sector.

* To establish a consensus among Federal land managing agencies about proper historic and archeological resource management practices and accountability.

* To improve the cooperation and coordination among Federal, State, local, and private sectors to preserve our national historic and archeological heritage.

* To reduce the incidence of archeological site plundering on public lands.

Response To Questions From Minority Members
Committee On Energy and Natural Resources:

11. Given your close personal association with the Alaska Land Act, do you believe that the Senate Energy and Natural Resources Committee and the Congress intended for the "minor boundary adjustment authority" contained in that Act to be used to delete areas specifically and consciously added to or deleted from conservation system units?

Answer: The "minor boundary adjustment authority" of section 103(c) of ANILCA has no express limitation on lands that can be deleted from CSUs beyond the 23,000 acre maximum and Congress would be notified of all proposed boundary adjustments under this authority. I am unaware of any boundary adjustments made within this Department under this authority that have affected lands consciously added to or deleted from a conservation system unit. There are minor boundary adjustment proposals contained in some of the draft Park/Preserve General Management Plans. All such adjustment proposals would be carefully reviewed on the merits and I would expect to consult with the Congress before any decisions would be made.

Response to Question from
Minority Members:

12. What do you feel is the proper mix between commercial and noncommercial rafters and boaters on rivers within the National Park System? How should that mix be determined?

Answer: There is no single or simple answer to the question of the proper mix of commercial and noncommercial rafters and boaters on rivers within the System. The Park Service is obligated to serve the public and provide for their enjoyment of park resources. Some visitors need the assistance of professional river runners and some are self-sufficient, so a mixture is needed. The actual ratio in a given park must be determined by the specific conditions occurring therein. I expect to rely on the professionals in the Park Service in making decisions in this area.

Response to Question from
Minority Members:

13. Can you think of any policy issue within the Department where your views might differ from your predecessor, Mr. Arnett?

Answer: My role as Assistant Secretary will be to fulfill the statutory obligations of the office and to carry out Secretary Hodel's policies. I am unaware of any major policy differences that I had with the former Assistant Secretary in his discharge of the same responsibilities.

Response to Question from
Minority Members:

14. What are your views on the need to expand the National Park System? Do you anticipate that the Department will recommend the establishment of any new park areas during the next 18 months? What do you see as the primary mission of the Outdoors Commission? Can you give the Committee any idea about when the members of the Commission might be formally announced?

Answer: The National Park Service is reviewing some proposals for additions to the System and I am personally interested in appropriate expansion. There is no timetable for recommendations to be made. It is my understanding that the Commission will examine the broad issue of outdoor recreation in the United States. This is a Presidential Commission and I have no knowledge of when its members will be formally announced.

Response to Question from
Minority Members:

15. The National Park Service international office implements World Heritage Treaty obligations by working with park and natural resource specialists in foreign countries. The Administration has not requested funds for the voluntary dues for the past few years. The dues are paid by the State Department. Would you encourage the Administration to fund this international conservation effort?

Answer: The Secretary of the Interior has recommended these dues be paid.

Response to Question from
Minority Members:

16. Last year in the Interior Appropriations Conference Committee Report, Congress instituted a consultation requirement on all exchanges with the appropriate committees. How has the Agency complied? What has been your role?

Answer: I understand that the National Park Service has initiated, and plans to continue, periodic consultation with appropriate committees as exchanges develop. I also understand that the Fish and Wildlife Service will also do the same as administrative exchange proposals are developed. I have reviewed potential exchanges.

Response To Questions From Minority Members
Committee On Energy And Natural Resources:

17. What has been your role in preparation of the proposed regulations for the use of cabins in national parks?

Answer: Because of my firsthand knowledge of the statutory authority for the cabin regulations, I worked with the offices of the Solicitor and the Assistant Secretary for Fish and Wildlife and Parks as policy advisor and reviewer in the preparation of the proposed cabin regulations.

Response To Questions From Minority Members
Committee On Energy And Natural Resources:

18. The purpose of ANILCA Section 1303 was to protect those individuals who had been living a bush lifestyle and who had a national park established around them. The Act specifically states that cabin permits are not to be issued solely for recreational use. However, the proposed regulations have only a four-month residency requirement. Isn't the practical effect of this regulation to give exclusive use of a cabin within a national park to an urban resident who uses the cabin only during the summer months with the provisions in the Act?

Answer: ANILCA expressly prohibits the issuance of permits for private recreational use of cabins only on lands within conservation system units other than park areas. ANILCA, § 1303(b). In park areas, ANILCA provides essentially that a "claimant" must show "proof of possessory interest or right of occupancy" to obtain a cabin permit. ANILCA sets no residency requirement. Nevertheless, the legislative history of ANILCA's cabin provision reveals an intent to permit the "continued use and occupancy" of trespass cabins by their "occupants" or "residents" so that these people may carry on their "unique lifestyles." To implement this intent, the proposed cabin regulations go beyond the words of the statute to impose a residency requirement of a "substantial portion of time," typically at least four months. Since four months is longer than a summer season in Alaska, the Department considered this residency requirement appropriate to show a serious commitment to a bush lifestyle. The Department has received many comments, pro and con, on this requirement, and I will carefully consider these comments in working with the Park Service on a final regulation.

Response To Questions From Minority Members
Committee On Energy And Natural Resources:

19. The Act states that continued use of a cabin is allowed only if it remains compatible with the purposes for which the unit was established. Yet the regulations require almost no documentation of intended uses and then places the burden of proof on the park superintendents to show that use of a cabin is detrimental to the park in order to remove it. Given the obvious intent to prevent incompatibility and potential damage rather than waiting while damage occurs and then taking action only after it happens, how do you explain this inconsistency?

Answer: ANILCA's express requirement that the use of a cabin be compatible with the purposes for which the area was established also applies to cabins in conservation system units other than park areas. ANILCA, § 1303(b). The express statutory requirement for use of a cabin in a park area addresses compatibility only in the sense that a cabin permit may be revoked if it causes, or has the potential to cause, significant detriment to the principal purposes for which the unit was established. Id., § 1303(c)(2). Nevertheless, I will review this issue in the course of preparing final cabin regulations.

Response To Questions From Minority Members
Committee On Energy And Natural Resources:

20. While intended to protect the rights of the traditional cabin resident, Congress did not intend to raise those permit rights to property rights for an inholder. Such an outcome would mean the full bundle of constitutional as well as ANILCA Title XI rights would attach, exacerbating the already serious inholding problem in the parks. Do you view this as a legitimate concern?

Answer: The proposed regulations clearly state that cabin occupants not subject to a valid existing lease or permit on December 2, 1980 and who, by definition, possess no interest in the land on which their cabins are located, do not qualify for the privilege of guaranteed "adequate and feasible" access granted by section 1110(b) of ANILCA. In most cases, the cabin occupants will not need special access privileges, however, since section 1110(a) of ANILCA establishes a liberal "open unless closed" policy concerning most access. If the cabin occupant's desired access is restricted, however, the Superintendent will specify the appropriate access in the cabin permit in accordance with traditional National Park System authorities and policies. As with other issues identified in the comments on the proposed regulations, the Department will carefully consider the Title XI and constitutional issues in preparing final regulations.

Response To Questions From Minority Members
Committee On Energy And Natural Resources:

21. Isn't it true that the regulations would make it easier for a private individual to build a new cabin in a national park by claiming "hardship" than it would be for the National Park Service to build a needed administrative cabin?

Answer: The proposed "extraordinary hardship" provision does not authorize construction of new cabins, only continued use of an existing cabin in rare circumstances. The applicant's burden of proof to obtain an extraordinary hardship permit is substantial. On the other hand, the proposed "official government business" provision allows a Superintendent to build a new cabin for administrative purposes if no existing cabin is available. As a matter of good public policy, the Superintendent would have to justify in writing each administrative cabin, either individually or in the planning documents for the area. This proposed requirement recognizes the sensitivity of both building new cabins and converting existing cabins in Alaska.

Response To Questions From Minority Members
Committee On Energy And Natural Resources:

22. Why have these regulations not been promulgated in final?

Answer: The regulations were issued in draft form in 1983 and were available for public comment for an extensive period. After the comment period closed, in 1984 the Alaska Land Use Council provided additional recommendations and the public comment period was reopened until January, 1985. The Alaska Region of the Park Service has been completing review of the latest comments and I would expect that final action can be taken in the very near future.

Response To Questions From Minority Members
Committee On Energy And Natural Resources:

23. Under the proposed Title XI regulations, the agencies would bear the burden of proof to deny a right-of-way. Isn't this a reversal of established federal policy that would allow denial of an application "if adequate and feasible access" to inholdings already exist.

Answer: Under the draft title XI regulations for section 1110(b) promulgated by the Department, the department bears the burden of proof to deny the access requested only when made by those qualifying as inholders under the provisions of section 1110(b). Under this authority, Congress provided qualified inholders a right of "adequate and feasible" access for economic and other purposes. The draft regulations require the showing of a legitimate government interest in denying an application filed in exercise of this right. If it is determined that denial of an application is required to protect one of these listed government interests, and that adequate and feasible access already exists, these proposed regulations authorize the denial of the request. This burden of proof requirement currently exists in the NPS (36 C.F.R. § 13.15) and the FWS (50 C.F.R. § 36.23) regulations for Alaska parks and refuges, published in 1981, and is viewed as appropriate to implement correctly the Congressional intent of section 1110(b). Since these are draft regulations, this issue will be subject to review by the Department.

Response To Questions From Minority Members
Committee On Energy And Natural Resources:

24. The regulations dramatically broaden the definition of inholding and limit the government's right to modify an inholder's access proposal even though it would cause adverse impacts on the resource or would be inconsistent with the purposes of the unit. Explain why you believe that to be in the national interest?

Answer: Section 1110(b) of ANILCA establishes a right to adequate and feasible access. The "inholding" definition in the proposed title IX regulations comes directly from this statutory provision. The right of access, according to the statute, is subject only to "reasonable regulations issued by the Secretary to protect the natural and other values" of the CSUs. The proposed regulations provide for the inclusion of terms and conditions in the permit to assure the protection of CUS values. Accordingly, the proposed regulations would implement section 1110(b) as Congress dictated. However, before any final regulations are issued this issue will be thoroughly reviewed within the Department.

Response To Questions From Minority Members
Committee On Energy And Natural Resources:

25. The fact that these regulations have not been issued in final has given rise to the need for separate legislation for the proposal to build a road through the Cape Krusenstern National Monument. What has caused this delay?

Answer: The publication of final regulations to implement the provisions of title XI has been delayed to afford the newly appointed Director of the National Park Service and the Assistant Secretaries for Fish and Wildlife and Parks, and Land and Minerals Management, once confirmed by the Senate, an opportunity to review and approve them. I do not believe that the fact that these proposed regulations have not been finalized gave rise to the need for separate legislation for the proposed road through the Cape Krusenstern National Monument. The Department was prepared to process a title XI application to its completion. However, at the request of the NANA corporation, the Department negotiated a land exchange, which if ratified by Congress, will result in the National Park Service obtaining substantial lands and interests in lands, which it would not have received under title XI. Accordingly, the National Park Service strongly prefers the land exchange which has passed the Senate and is before the House, over the title XI option.

Response to Question from
Minority Members:

26. You have been quoted as saying the interim management regulations "let you take a D-9 through a national park." Do you believe this is appropriate? Why were these regulations written so loosely?

Answer: The comment about taking heavy equipment through a park pursuant to the 1981 management regulations was taken totally out of context. In June, 1981, I made a public appearance in Fairbanks where I was questioned by a miner about the ability of miners to take heavy equipment into valid mining claims that were within the new Parks created in the 1980 Alaska Lands Act. I responded that Section 1110(b) of the new Act guaranteed access to valid inholdings, including mining claims. A claim holder would have to apply for a permit, the Park Service could attach reasonable terms and conditions to the permit to prevent environmental damage, and if the Service determined that the equipment was needed for the mining operation, the regulations would "let you (a miner) take a D-9 through a national park" to reach a mining claim. Permitting inholders to have access to their lands or interests is appropriate. Moreover, the regulations are not written loosely but comply with the Congressionally enacted statute.

Response To Questions From Minority Members
Committee On Energy And Natural Resources:

27. Though ANILCA created certain specific exceptions for management in Alaska, most of the policies should be consistent with the rest of the nation. Why are these regulations such a radical departure from those long established policies?

Answer: The regulations adopted for Alaska park and refuge units were developed through the public rulemaking process, and were designed to achieve similar management objectives and public use restrictions as exist in the rest of the nation. The differences in the Alaska regulations are reflective only of the statutory provisions of the Alaska National Interest Lands Conservation Act, which, in some instances, establishes special provisions for the Alaska areas. Public comments received on these regulations indicated no perception by reviewers that the regulations have made a radical departure from long established polices in the rest of the nation, and we do not view any departure as radical. Any differences from these policies are consistent with the statutory direction provided by ANILCA. I am however, always willing to consider fully and expeditiously any proposed changes to the Alaska regulations that are perceived as inappropriate for the conservation and protection of park values.

Response To Questions From Minority Members
Committee On Energy And Natural Resources:

28. An example of this inconsistency is the "open unless closed" policy for public uses and recreation in Alaska's parks and refuges which, among other things, would allow float planes to land on Wonder Lake in the middle of the Denali National Park Wilderness. The rest of the nation has the opposite policy. I understand a regulation to correct this problem was prepared some time ago. Why has it not been promulgated?

Answer: Section 102(4) of ANICLA which defines the term "conservation system unit" does not distinguish between pre-ANILCA parks and refuges and ANILCA parks and refuges. Accordingly, section 1110(a), which requires the "open until closed" provision, applies to all Alaska parks and refuges. Under 1110(a) the Secretary must permit the use of snowmachines, motorboats, airplanes and non-motorized surface transportation in parks and refuges, unless prohibited according to the procedures of the section. To address the concerns created by this type of access, special regulations limiting access in areas of the pre-ANILCA were issued in draft form. During consideration of the public comments on these proposed regulations, similar issues were raised with respect to units of the National Wildlife Refuge System, especially the Kenai NWR. Since this issue affects both pre-ANILCA park and refuge units in Alaska, the Department is considering a legislative amendment to change the interpretation of sections 102(4) and 1110(a).

51-869 O—85——9

RESPONSE TO QUESTIONS FROM
SENATOR HECHT:

1. You mentioned that Secretary Hodel has asked you to review the Truckee River proposal. When do you expect to complete this review, and would it be possible for you to share any of your written comments with me and other members of this Committee?

Answer: My review of the proposed agreement was for the limited purpose of ensuring that answers would be available to the Secretary regarding the effects and consequences of the proposal on the Department's programs. There is agreement within the Department to provide the necessary information and answers to the Secretary as soon as possible.

2. Do you agree with me that the government's financial obligations under the proposed settlement are quite reasonable, especially when compared with other recent Indian Water Rights settlements?

Answer: It appears that the costs of the proposed settlement are reasonable and may be less than the costs of the 1984 Ak Chin Settlement that I negotiated on behalf of the Department.

3. What other concerns do you have about this settlement, particularly from the standpoint of fisheries and wildlife enhancement? How do you think these resources would fare if the settlement fell apart and the matters were thrown back into the courts?

Answer: I have formed no independent opinion about the effects of the proposed settlement on fish and wildlife values. It is my understanding, however, that these resources, especially the endangered cui-ui are at risk if the status quo is maintained. It appears, therefore, that some action is necessary to ensure the conservation of fish and wildlife values.

4. Given all these considerations, do you support the settlement as it is presently drafted, and do you plan to make a favorable recommendation for its enactment to Secretary Hodel?

Answer: I am strongly in favor of settling this protracted controversy. However, my role as Deputy Under Secretary has been to outline the policy choices available to the Secretary and the consequences of different courses of action — not to make a recommendation.

5. Will you be available to meet with the Nevada Congressional Delegation and other parties to this settlement in an effort to resolve any remaining concerns you may have, possibly prior to your confirmation as Assistant Secretary?

Answer: I would be more than pleased to meet with the Nevada Congressional Delegation and others on this important matter at the earliest possible convenience.

RESPONSE TO QUESTIONS FROM
SENATOR MARK O. HATFIELD

1. If confirmed as Assistant Secretary of the Interior for Fish and Wildlife and Parks, will you send to Congress a supplemental budget request for Fiscal Year 1986 for the U.S. Fish and Wildlife Service to provide for implementation of the Canada-U.S. Salmon Interception Treaty? If so, will you request additional funding for these activities, or will you recommend use of available funds?

Answer: As the Department's senior representative in the negotiations leading up to establishment of the Treaty, I can assure you that I have a strong personal interest in seeing that the Department, through the Fish and Wildlife Service, fully meets its responsibilities under the Treaty and is properly represented in all activities of the Pacific Salmon Commission. In regard to funding in FY 1986, implementation costs will be covered by reprogramming funds from within the Service's overall FY 1986 budget. As you are aware, the House Appropriations Committee has recommended that the Service make available $265,000 for fulfilling its Treaty obligations from within total funds provided to the Service. I support this recommendation. However, I would point out that this funding will cover only work related to the Commission's Southern panel and that we will also have to reprogram funds ($145,000) to conduct field investigations related to further negotiations with Canada regarding management and allocation of Yukon River salmon stocks.

HATFIELD

2. Do you believe the Canada-U.S. Salmon Interception Treaty imposes obligations on the U.S. Government to fund additional fishery enhancement activities? If so, will you support the recommendations of the Treaty Commisssion for salmon enhancement when those recommendation are made?

Answer: I believe the Commission and the supporting technical panels established by the Treaty provide the framework for truly effective cooperative management of the international salmon resources of the Pacific Northwest. I intend to be personally involved in Commission activities and to work closely with the Commission as it proceeds in developing and implementing recommendations to protect, restore, and manage these important resources.

Response to Questions from
Senator Hatfield:

3. In light of the President's recent citation for "design excellence" of the National Park Service's tax certification program, do you plan to make any substantial changes in how that program is administered?

For the past four years, the President's budget has sought no funds for the Historic Preservation Fund.

Do you agree that this would be in the interests of the historic preservation program?

How does the Department plan to assume the National Register, tax certification and other duties of the 56 state preservation offices and the National Trust for Historic Preservation if the Congress goes along with this request?

In recent years, the Secretary of the Interior has been represented on the President's Advisory Council on Historic Preservation by a special assistant or career employee. Do you intend to take a personal interest in the work of this body and represent the Secretary?

Answer If confirmed, I will review this and other programs with Director Mott.

The Department is strongly to committed to curbing expenditures to help limit the federal budget deficits. The FY 86 budget calls for closing out the Historic Preservation Fund Grants-in-Aid Program. Historic Funds grants to the states are no longer critical to ensure that preservation activities continue.

Private sector investment in income producing historic properties resulting from incentives included in the Economic Recovery Tax Act of 1981 have had an extremely positive economic impact; e.g. increased jobs, revitalization of older communities, and expanded local tax bases. Consequently, I

believe that most states will continue to participate in historic preservation activities, particularly those related to the tax certification program.

The National Park Service received a substantial increase in dollars and personnel in FY 85 to handle an increased workload for preservation assistance and certification for federal tax benefits. It should be noted that the National Trust for Historic Preservation has no direct responsibilities for state historic preservation activities or historic preservation programs for federal tax benefits.

I will review with the Secretary the matter of his representative on the President's Advisory Council on Historic Preservation.

RESPONSE TO QUESTIONS FROM
SENATOR DANIEL J. EVANS

1. If confirmed as Assistant Secretary of the Interior for Fish and Wildlife and Parks, will you send to Congress a supplemental budget request for Fiscal Year 1986 for the U.S. Fish and Wildlife Service to provide for implementation of the Canada-U.S. Salmon Interception Treaty? If so will you request additional funding for these activities, or will you recommend use of available funds?

Answer: As the Department's senior representative in the negotiations leading up to establishment of the Treaty, I can assure you that I have a strong personal interest in seeing that the Department, through the Fish and Wildlife Service, fully meets its responsibilities under the Treaty and is properly represented in all activities of the Pacific Salmon Commission. In regard to funding in FY 1986, implementation costs will be covered by reprogramming funds from within the Service's overall FY 1986 budget. As you are aware, the House Appropriations Committee has recommended that the Service make available $265,000 for fulfilling its Treaty obligations from within total funds provided to the Service. I support this recommendation. However, I would point out that this funding will cover only work related to the Commission's Southern panel and that we will also have to reprogram funds ($145,000) to conduct field investigations related to further negotiations with Canada regarding management and allocation of Yukon River salmon stocks.

EVANS

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Answer: I believe the Commission and the supporting technical panels established by the Treaty provide the framework for truly effective cooperative management of the international salmon resources of the Pacific Northwest. I intend to be personally involved in Commission activities and to work closely with the Commission as it proceeds in developing and implementing recommendations to protect, restore, and manage these important resources.

EVANS

3. The House of Representatives included in the FY 1986 Interior Appropriations bill $1.7 million to commence construction of the Nisqually Fish Hatchery, Washington. The Nisqually Hatchery proposal was endorsed by the State of Washington and the Northwest Indian Fisheries Commisssion. Furthermore, the Nisqually hatchery proposal was exempted from its moratorium on new hatchery construction by the Salmon and Steelhead Advisory Commission. In May 1982, a feasibility study was completed on the hatchery proposal. The feasibility study concluded the benefit-cost ratio is a very positive 3.68:1. Will you support construction of the hatchery prior to enhancement recommendations of the Canada-U.S. Salmon Treaty Commission?

Answer: The Fish and Wildlife Service has reviewed the feasibility study for the Nisqually hatchery and concludes that the proposal is consistent with overall Federal/State/Tribal objectives for managing anadromous fishery resources of the Pudget Sound area, and that study conclusions regarding feasibility are valid. I am aware of the House recommendation to add funding to the FY 1986 appropriation for initiation of construction. Although this funding was not included in the President's budget request, the Department will not oppose its appropriation in FY 1986. However, since the hatchery will primarily serve and be operated by the Nisqually Tribe, provision of related funding through the budget of the Bureau of Indian Affairs might be more appropriate.

Response to Questions from
Senator Evans:

4. In light of the President's recent citation for "design excellence" of the National Park Service's tax certification program, do you plan to make any substantial changes in how that program is administered?

For the past four years, the President's budget has sought no funds for the Historic Preservation Fund.

Do you agree that this would be in the interests of the historic preservation program?

How does the Department plan to assume the National Register, tax certification and other duties of the 56 state preservation offices and the National Trust for Historic Preservation if the Congress goes along with this request?

In recent years, the Secretary of the Interior has been represented on the President's Advisory Council on Historic Preservation by a special assistant or career employee. Do you intend to take a personal interest in the work of this body and represent the Secretary?

Answer If confirmed, I will review this and other programs with Director Mott.

The Department is strongly to committed to curbing expenditures to help limit the federal budget deficits. The FY 86 budget calls for closing out the Historic Preservation Fund Grants-in-Aid Program. Historic Funds grants to the states are no longer critical to ensure that preservation activities continue.

Private sector investment in income producing historic properties resulting from incentives included in the Economic Recovery Tax Act of 1981 have had an extremely positive economic impact; e.g. increased jobs, revitalization of older communities, and expanded local tax bases. Consequently, I

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The National Park Service received a substantial increase in dollars and personnel in FY 85 to handle an increased workload for preservation assistance and certification for federal tax benefits. It should be noted that the National Trust for Historic Preservation has no direct responsibilities for state historic preservation activities or historic preservation programs for federal tax benefits.

I will review with the Secretary the matter of his representative on the President's Advisory Council on Historic Preservation.

July 29, 1985

Honorable James A. McClure
Chairman
Committee on Energy and
Natural Resources
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

Enclosed please find my answers to the questions for the record from Members of the Committee.

Let me again thank you, the Members, and the staff of the Committee for the assistance and courtesies provided to me.

Please let me know if I can be of any further assistance.

Sincerely,

Charles A. Trabandt

Charles A. Trabandt

Enclosure

cc: Honorable J. Bennett Johnston
Ranking Minority Member

QUESTIONS SUBMITTED BY SENATOR McCLURE

Q1. There is a great deal of distress among hydroelectric developers about the seeming inability of the Commission to process the hydro applications in a timely manner. In addition, there is little communication with the hydro-developers regarding the status of their applications as they are processed.

Developers are spending many thousands of dollars seeking to develop a potential hydro site but have not received a speedy determination from the FERC as to whether they can proceed with their project. For some, a rapid FERC decision is critical to the economic viability of their projects; for others, a rapid decision is essential for their personal well-being.

My question is: What are your plans to speed up the processing of the applications currently pending before the Commission and what steps will you take to ensure better communication between the Commission and the applicants?

A. I share your concern about the distress among hydroelectric developers. Federal policies adopted in 1978 and 1980 created incentives for hydroelectric development as a matter of high national policy and priority. Additionally, a key tax incentive in the Internal Revenue Code will expire under current law in several years, possibly before pending hydro-electric development projects can qualify for the favorable tax treatment. Another complicating factor is the dramatic increase in license applications from 250 per year in fiscal years 1982, 1983, and 1984 to a projected 380 in fiscal year 1985. The increase is a result primarily of recent court decisions and the Commission's response to them. Finally, the Commission's decision to implement the cluster impact assessment procedures (CIAP) may add to otherwise existing sources of delay in processing the project applications.

The Commission is attempting to continue the progress made in the past two years to speed up processing and ensure better communications. For example, Chairman O'Connor announced on July 22, 1985, the opening of a new FERC regional office in Portland, Oregon, to provide greater access for hydroelectric developers to the Commission. The current Director of the Hydroelectric Program at Headquarters in Washington, D. C., will serve as the Director of the Office. Second, the Commission is seeking additional funding for the hydroelectric program in fiscal year 1986 to provide the necessary personnel and resources to speed up the processing of pending applications.

If confirmed, I would plan to become better informed on the application processing system, with the intention of recommending any further improvements to Chairman O'Connor and the Commission. I also believe that this is an area where a small investment of additional funding and personnel may make a large difference in the speed of processing and the level of communciations. I would not hesitate, therefore, to recommend to Chairman O'Connor and the Commission that additional funds be sbught despite current budgetary constraints. I also would ensure to the best of my capability as an individual Commissioner that the Commission and the Commission staff maintain a high priority on making significant additional improvements in the hydroelectric licensing process, including the CIAP procedures.

Finally, I would plan to be prepared to recommend to Chairman O'Connor and the Commission and for the Congress such technical amendments to existing law which would facilitate the most orderly and timely action on hydroelectric project applications under current policy.

I would look forward to working with you, Mr. Chairman, the Committee on Energy and Natural Resources, and the Congress in that effort.

Q2/3. Mr. Trabandt, early this year, the Commission made a decision to evaluate the environmental consequences of multiple hydro project development in a procedure called the Cluster Impact Assessment Procedure or CIAP. Three river basins were targetted for this procedure, one of them in my home state. I have protested such a procedure for some time, believing that environmental reviews should be done on a case-by-case basis. I am alarmed that the Commission has allowed 519 days to conduct these reviews. This delay can only make the projects economically infeasible for the developers.

Mr. Trabandt, where do you stand regarding the need for these cluster impact studies?

What actions might you take as Commissioner to ensure that the CIAP are always conducted as quickly as well as thoroughly as possible?

A. The need for the CIAP procedure is founded on the Commission's interpretation of its legal responsibilities and requirements under the National Environmental Policy Act, section 10 of the Federal Power Act, other related acts, and the implementing guidelines and regulations. I personally have not conducted an independent legal analysis of the Commission's conclusion that it must consider some form of cumulative environmental impact assessment for most projects in a river basin, rather than a single project, on a case-by-case basis. There, however, apparently is a broad consensus in the Commission and other involved Federal agencies that the use of the case-by-case approach is legally deficient and, as a result, would lead to protracted litigation in the case of projects in any of the controversial river basin situations, such as in the Northwest. Some individual projects could and, in fact, already have been processed outside of CIAP procedures, where there is consensus support from local and state groups and reviewing agencies on environmental issues. I, personally, would be prepared to support a general case-by-case approach, if it could be shown to be legally sound and would lead to more predictable and speedy processing of license applications. The FERC General Counsel has informed me that the case-by-case approach would not satisfy that test.

I do believe that the CIAP procedure, any variation of it, or another different approach to cumulative environmental impact analysis must be formulated and implemented as effectively as possible to provide an early conclusion for developers and other interested parties at the Federal,

state, and local levels. Chairman O'Connor and the Commission have estblished a Task Force under the direction of the Executive Director of the Commission to seek that result for the CIAP procedures. I will urge that the Task Force make every effort to achieve that result. I also will urge, as I discussed in the preceeding answer, that all the necessary resources be made available and that the highest priority be maintained for that effort.

Again, I would look forward to working with you, Mr. Chairman, the Committee, and the Congress in that effort.

Q4. I would also like to know if you believe the other 19 river basins in the West that have been identified as possible CIAP areas will or should receive the same cluster impact studies?

A. I do not yet have an opinion on the other 19 river basins in the West as candidates for the cluster approach. If confirmed, I would review the record and status of any proposals to designate them for the CIAP approach. The Commission has determined on the basis of the record to date that the three selected river basins--the Salmon, Snohomish, and Owens--satisfy the test that the clustering of proposed projects creates a substantial potential for adverse environmental impacts in part or all of the basin. Currently, the Commission also is considering the application of the CIAP procedure to the Deschutes River in Oregon. I believe it would be most prudent to obtain further experience with the implementation of the CIAP process on the three designated river basins, before any affirmative action would be taken on other river basins. I also believe that there will be serious resource constraints, in terms of funding and personnel, in the near term, which would inhibit seriously an application of the CIAP procedures to additional river basins at this time. In the context of overall national energy policy, it is imperative that we proceed with great caution and prudence in the CIAP area, lest we forego the further development of our hydroelectric energy resources in a regulatory Gordian knot.

QUESTIONS SUBMITTED BY SENATOR EVANS

Q5. Do you believe the Federal Energy Regulatory Commission should consider the potential for adverse cumulative environmental impacts caused by multiple hydroelectric developments?

A. Please see my previous answers to Senator McClure's questions 2 and 3 regarding the potential for cumulative adverse environmental impacts. As I stated, I have not completed an independent legal analysis on the subject. The legal advice available to me at this time indicates that some form of cumulative environmental impact assessment may be statutorily required for certain river basins and, furthermore, that such an approach, as a result, may lead to a more predictable and speedy processing of applications than the case-by-case project. In any event, the Commission already has acted to require the CIAP procedure for the three designated river basins and has the Deschutes River under review. The most immediate question for a new Commissioner, therefore, is how to ensure that the CIAP procedure adopted by the Commission can be made most effective.

Q5a. Do you support the FERC's Cluster Impact Analysis Procedure (CIAP) as a method for addressing the issue of cumulative environmental impacts caused by multiple hydroelectric development?

A. In the context of my above answer and the answers to Senator McClure, I am prepared to participate constructively in the Commission's effort to implement and perfect the CIAP procedures for the three river basins already designated. I reserve judgment at this time on the further designation of any additional river basins for the reasons discussed in my answers to Senator McClure. While I fully appreciate and understand the important and legitimate concerns of those supporting the CIAP procedures, I also believe that the Commission must proceed cautiously in considering any extension of the procedure to other river basins until we have actual operating experience.

Q6. Do you believe the Northwest Power Act imposes affirmative obligations on the FERC to consider the Northwest Power Planning Council's Columbia Basin Fish and Wildlife Program when licensing non-Federal hydroelectric facilities in the Columbia River system?

A. I support the Commission's current policy in accordance with statutory requirements, to take into account the Council's Fish and Wildlife plan and program to the fullest extent practicable and to seek to incorporate its fish and wildlife program and concerns into the Commission's decision-making process at all relevant points for projects located on the Columbia River and its tributaries. The Commission on February 28, 1985, changed its regulations to require all potential license or exemption applicants in the region to take into account the concerns of the Council prior to filing their applications with the Commission.

Q6a. What are your views regarding the relationship between FERC and the Northwest Power Planning Council?

A. The Council is an important statutory institution in the Pacific Northwest under the 1980 Act. I believe that the Commission must accord the Council a full and complete opportunity to participate in the Commission's activities as specified in the 1980 Act. In that regard, I commend Chairman O'Connor and the Commission for the actions by FERC to increase the effectiveness of coordination and consultation between the Council and the Commission, as outlined in Chairman O'Connor's letter of March 11, 1985, to Chairman Dingell of the Subcommittee on Oversight and Investigations of the House Committee on Energy and Commerce. I am prepared to support generally the initiatives outlined by the letter; and I look forward to working with the Council and its staff, if I am confirmed. At the same time, the Commission cannot avoid or re-delegate its statutory functions and responsibilities under the several Federal laws applicable to matters of interest to the Council. As I stated in my testimony to the Committee, the Commission must carry out the statutory authorities delegated to it and may not exceed those authorities. I would be concerned seriously if the Commission's efforts to achieve an improved relationship with the Council led to any problem in that regard. On balance, the Council has an important statutory function; and I believe the current improved relationship will benefit the Council, the Commission, and the Pacific Northwest.

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D. C. 20426

OFFICE OF THE GENERAL COUNSEL

July 30, 1985

Honorable James A. McClure
Chairman
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Enclosed please find my answers to Senator Bingaman's questions, which I received last evening.

Please let me know if I can be of any further assistance.

Sincerely,

Charles A. Trabandt

Charles A. Trabandt

Enclosure

cc: Honorable J. Bennett Johnson
Ranking Minority Member

QUESTIONS SUBMITTED BY SENATOR BINGAMAN

Q.1. Have you had the opportunity to review the comments by the State of New Mexico? If you have not, I recommend you review them thoroughly.

A. I have not reviewed the comments of the State of New Mexico although I have reviewed summaries of comments which address the concerns you have included in your introductory remarks. If confirmed, I shall review the comments of the State at the earliest possible time.

Q.2. Do you see any reason why FERC should not slow down its proceedings to give the Congress, the natural gas industry, consumers and themselves time to analyze all of the ramifications of this total restructuring of the industry.

A. Chairman O'Connor of the FERC has stated in Congressional testimony that he hopes to complete action on a Final Rule by the end of this calendar year. The Commission, pursuant to the orders of the U.S. Circuit Court of Appeals for the District of Columbia, has ordered the expiration on October 31, 1985, of current special transportation programs of benefit to producers and consumers. The Proposed Rule is intended by the Commission to address in a comprehensive fashion the many interrelated factors under existing law and regulation plaguing both the industry and consumers.

At the same time, the Commission has received about 280 sets of extensive comments on the Proposed Rule, which must be reviewed and analyzed in a systematic manner for consideration by the Commission to determine the next procedural step in the rulemaking process, as well as the substantive content of the proposed rule. Consequently, it is not likely that there could even be a rush to judgment in the rulemaking; and I do not have any reason to believe that there is any disposition in the Commission for such a rush. In any event, the Chairman and the Commission have distinguished themselves on this and other matters by proceeding in a prudent, measured, and thoughtful manner, with full respect for the legitimate concerns, as well as the due process rights, of all interested parties. I would expect that same result in future action on the NOPR.

Q.3. I would like your assurance that you would urge the FERC to allow the necessary time for a full consideration--hopefully, including additional Congressional hearings on this critically important matter.

A. I have stated my belief in answer to question 2 that I have every confidence that the Commission will proceed in a prudent, measured, and thoughtful manner in its further consideration of the NOPR. Consequently, I am pleased to give you the assurance you have requested and, if confirmed, I will urge the Commission to allow necessary time for such a full consideration.

Let me take this opportunity, if I may, to reiterate my comments on the NOPR given to the Committee during my testimony at the hearing this morning. I can assure you that, if confirmed, I will not rubberstamp the Proposed Rule. Chairman O'Connor, the Commission, and the Staff of the FERC are to be commended for formulating a comprehensive proposed rule on the basis of the extensive record developed in the Notice of Inquiry proceeding. Certainly, any proposed rule of a comprehensive nature would be a difficult challenge, not unlike the legislative challenge faced by the Committee on Energy and Natural Resources in 1982, 1983, and 1984. The challenge is that much more imperative in the face of the D.C. Circuit Court cases discussed above.

I would hope and, if confirmed, seek to ensure that any final rule would satisfy the following tests:

1. Legally sound. There should be a good probability that the rule in large part will withstand judicial review. There must be confidence that the rule does not exceed the statutory authorities delegated by the Congress to the Commission. Finally, neither the industry nor the gas consumer can afford the several years further delay inherent in a rule struck down by the courts.

2. Operationally workable. The rule should not create major new distortions, problems and uncertainties. An unworkable or marginally workable rule would be as counterproductive potentially as a rule struck down by the courts.

3. Must be an improvement. There should be no result leading only to comprehensive change in current regulation, without marked improvement in the current industry and market situation. As Senator McClure stated repeatedly during consideration of comprehensive natural gas legislation in 1983 and 1984, we should not simply seek to exchange one form of economic dislocation or misery for another, without any significant improvement over the status quo.

4. Should introduce increased competition. Both industry and consumers should benefit from increased competition in the marketplace, and effectively transmitted market signals should supplant, as much as possible, the regulatory management of essential economic decisions from the wellhead to the burner tip. The current regulatory mechanisms frustrate the effective communication of those signals and the competitive response to them. In many respects, that is the most alluring incentive to seek comprehensive regulatory reform of the current system, rather than additional quick fixes or partial amendment of that system.

5. Assured and reliable long-term supply of domestic gas at lowest reasonable cost. In the end, this test is the *sine quo non* of any proposal for comprehensive reform of natural gas regulation. It is abundantly clear that the current regulatory system today will not satisfy this test. Perhaps, the greatest challenge will be to formulate a comprehensive rule which can give greater assurance of such supply at such cost.

Conclusion

The above tests establish an analytical measure of effectiveness for me, if confirmed, to analyze and consider the NOPR comments and review both procedural and substantive options for the next step in the rulemaking process. It remains to be seen if a comprehensive rule can, in fact, be fashioned under existing legal authorities available to the Commission, which will satisfy those tests. I appreciate your deep concern and interest in the proposed rule and, if confirmed, look forward to the opportunity to work with you, the Committee and the Congress within the legal constraints applicable to a rulemaking.

APPENDIX III

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

THE WILDLIFE LEGISLATIVE FUND OF AMERICA
To protect the Heritage of the American Sportsman to hunt, to fish and to trap

1612 K Street, N.W.
Suite 1101
Washington, D.C. 20006
202/466-4407

STATEMENT IN SUPPORT OF WILLIAM P. HORN

to be

ASSISTANT SECRETARY FOR FISH AND WILDLIFE
AND PARKS

UNITED STATES DEPARTMENT OF THE INTERIOR

Submitted to

ENERGY AND NATURAL RESOURCES COMMITTEE
United States Senate

BY

THE WILDLIFE LEGISLATIVE FUND OF AMERICA

July 24, 1985

Washington, D. C.

The Wildlife Legislative Fund of America is a non-profit organization which protects the heritage of American sportsmen to hunt, fish and trap and protects scientific wildlife management practices by providing legislative lobbying and legal defense services. It is an association of sportsmen's and other conservation organizations at the national, state and local levels. These range from Ducks Unlimited, whose members raise and spend over $40 million annually to acquire and maintain North American Waterfowl habitat, to local rod and gun clubs. Through these organizations, WLFA represents the interests of an aggregate membership of over 750,000 conservation-minded Americans.

The Wildlife Legisaltive Fund supports the nomination of William P. Horn to be the next Assistant Secretary for Fish and Wildlife and Parks in the Department of the Interior. Mr. Horn's knowledge and experience make him an excellent choice for that position.

He has a great appreciation for the out-of-doors, born of his experiences as a hunter and fisherman. As Deputy Under Secretary of the Department of the Interior, Mr. Horn became well-known for his commitment to the enhancement of our wildlife resources. His achievements have demonstrated his skills, dedication, and cooperative spirit.

The Wildlife Legislative Fund strongly supports Bill Horn's nomination. We urge the members of this committee and the U.S. Senate to confirm Mr. Horn's nomination to be the next Assistant Secretary for Fish and Wildlife and Parks.

Statement of Jack Hession, Alaska Represenative, Sierra Club
for the Hearing Record
on the Nomination of William Horn
as Assistant Secretary of the Interior for Fish and Wildlife, and Parks
Committee on Energy and Natural Resources and
Committee on Environment and Public Works
United States Senate
Washington, D.C.
July 24, 1985

This statement is submitted in opposition to the confirmation of William Horn as Assistant Secretary of the Interior.

Mr. Horn's record on Alaska public land issues and policies over the last four and one-half years has not, in our opinion, been in the best interest of the nation. Based on that record we do not believe his duties should be expanded to include all of this country's national parks, wild and scenic rivers, and wildlife refuges.

During the past four and one-half years, Mr. Horn has accommodated resource development interests and allowed incompatible uses to occur inside the new parks, refuges, wild rivers, and wilderness areas set aside by Congress as "National Interest" lands in the Alaska National Interest Lands Conservation Act of 1980 (ANILCA). In particular, Mr. Horn has proposed land exchanges and land withdrawal modifications that would allow development interests to assume ownership of these conservation system lands. Examples of the department's major initiatives include:

--A land exchange that gave the the Arctic Slope Regional Corporation (ASRC) the subsurface estate of approximately three townships inside the coastal plain of the Arctic National Wildlife Refuge. This has allowed ASRC's partner Chevron to drill exploratory oil and gas wells two years

before Congress is scheduled to debate whether to allow oil and gas leasing in this internationally important refuge.

--A land exchange that would give three Native corporations ownership of about 4,000 acres of St. Matthew Island, a wilderness national wildlife refuge unit, for subsequent lease as an oil and gas exploration base and possible port. This idea was blocked in federal district court, and is now on appeal.

--A land agreement with the NANA Native regional corporation that would convey 94,000 acres of Cape Krusenstern National Monument lands to NANA in order to expedite construction of a haul road and railroad to the Red Dog lead-zinc-silver mine. In ANILCA, Congress provided for a transportation process (in Title 11) for its consideration of right-of-way applications across parks and wilderness areas in Alaska, but four and half years later regulations implementing the process have still not been issued by the department.

Mr. Horn has sought to avoid public review and comment on proposals for major and adverse changes in the National Interest Lands. He has interpreted Sec. 910 of ANILCA to exempt environmental impact statements when Native conveyances are part of the proposals, the effect of which has been to cloak the exchanges and other arrangements in secrecy.

Under Mr. Horn's guidance the park and refuge comprehensive conservation plans mandated in ANILCA are being shaped in accordance with the desires of the State of Alaska and development interests. The Interior Department has not given the National Park Service and the Fish and Wildlife Service in Alaska the support these agencies require to publish strong plans in the national interest.

The result of the department's failure to back its own agencies is not only weak plans, but interminable delays in the planning process as the State and development interests, aided by the Alaska Land Use Council established in ANILCA, constantly pressure the Park and Fish and Wildlife Services to extend deadlines and further water down the plans.

Four and one-half years after enactment of ANILCA, only three of sixteen refuge plans have been published in final form, one of which (Izembek) simply confirms the wilderness status Congress assigned in ANILCA to virtually the entire refuge. The Becharof "final" plan is currently under attack by the State, Native, and development interests, and conservationists anticipate major weakening changes. The final Kenai plan has been substantively amended through an agreement with the State that the public did not have an opportunity to consider in draft form.

In order to meet the December 1985 deadline for the 13 park plans, the administration released, almost simultaneously, the nine remaining draft plans this past spring, with public comment scheduled for this summer. As Americans are more interested in visiting the National Interest Lands in the summer than reading bureaucratic prose about them, it is almost as if the department is deliberately trying to discourage public participation in the planning process, not encourage it as called for in ANILCA. And the drastically abbreviated public review and comment period for the nine parks has further compromised the process.

Implementation of the Alaska Lands Act has also suffered from the department's regulations for specific provisions of the law. In 1981, the department published general "interim" management regulations that were supposed to be replaced in the fall of that year with final regulations. Four years later the draft interim regulations, which received strong criticism from the Sierra Club and other public interest groups, languish in the department.

Draft regulations on Title 11, tresspass cabins in the conservation system units, mechanized access to the three pre-ANILCA national parks, and access to saltwater wilderness in Glacier Bay National Park all are held up in the department, probably because the department dares not publish them in the form they were first presented to the public.

Mr. Horn and the Administration have never sought funds for land acquisition purposes for the new parks, wild rivers, and refuges, despite the willingness of many inholders to sell. And land exchanges

designed to acquire these inholdings have been frustrated by the department's refusal to allow Bureau of Land Management acreage to be used for trading purposes. Exchanges put forward under Mr. Horn's tenure have allowed the exploration or extraction of resources in the parks and refuges. Benefits for the units involved have been secondary.

During Mr. Horn's time in office the department has taken decidedly anti-wilderness positions. Although ANILCA gives the Secretary the option of recommending wilderness status for BLM lands in Alaska, the department's directive to BLM-Alaska is to refrain from reviewing the remaining BLM lands for wilderness purposes.

ANILCA also calls for the department to review the non-wilderness portions of the parks and refuges, and make recommendations to Congress for possible additional wilderness designations. Recently the department instructed the regional director of the Fish and Wildlife Service to, in effect, keep additional wilderness proposals for the refuges (three quarters of the 76 million acres are non-wilderness) to the bare minimum as part of the joint refuge plan-wilderness reviews.

In summary, Mr. Horn's record at the Interior Department is not balanced and does not appear to our organization to have represented the public interest in the National Interest Lands of Alaska. The Assistant Secretary of the Interior responsible for the management and protection of all of America's "National Interest Lands"--its magnificent national parks, wild and scenic rivers, and wildlife refuges--should be an advocate of these national treasures. Mr. Horn has clearly not shown himself to be such an advocate.

We urge the Committees to vote against confirmation.

Thank you for this opportunity to submit the Sierra Club's views for the record.